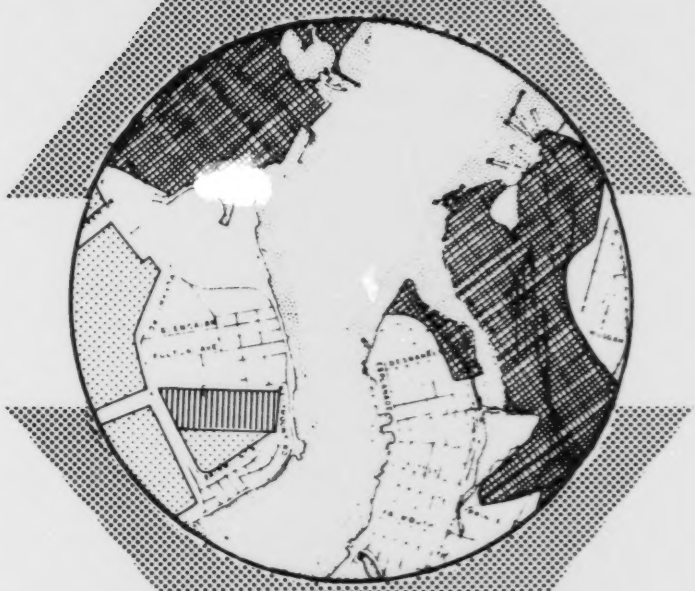
Municipal Land Use Planning and Controls



REVIEW & PROSPECTS

N.S. Planning Seminar '86
Chateau Halifax
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SEMINAR PROCEEDINGS

These proceedings are comprised of papers presented by speakers, transcripts of taped addresses, and summaries prepared by observers, edited as required.

Province of Nova Scotia
Department of Municipal Affairs
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TO THE READER:

Herewith the proceedings of the ninth annual Planning Seminar, "Municipal Land Use Planning and Controls - Review and Prospects".

We experienced increased registration in 1986, as well as an increase in the diversity of those attending. We trust those attending who came from other than professional planning backgrounds, gained an understanding of the professional and technical underpinning of municipal planning.

We trust all will enjoy this record of what was said, and will be encouraged to rejoin us for the 1987 Seminar.

Yours sincerely,

R. G. W. Simpson

R. G. Simpson
Provincial Director of Planning

RGS:cfm

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It's my very great privilege and pleasure this morning to introduce my boss, the Minister of Municipal Affairs to you, the Honourable David Nantes.

He was first elected to the Nova Scotia Legislature as a representative of the constituency of Cole Harbour in the general election of September 1978. He's obviously been re-elected since and was appointed Minister of Municipal Affairs on November 26, 1985. David is a native of Charlottetown, Prince Edward Island. He holds a Bachelor of Science and Bachelor of Engineering degrees. Mr. Nantes' background includes a number of years in the consulting engineering field.

He served as President and Chief Executive Officer of the Tidal Power Corporation from 1979 to March 1984. That position, as many of you probably realize included responsibility for overseeing the construction of the Annapolis Tidal Power Project which was the first plant in North America to harness the ocean's tides to produce electricity.

He is a resident of Cole Harbour. He's a member of the Association of Professional Engineers of Nova Scotia, and received their Citizenship Award for 1985. He's also a charter member of the Cole Harbour/Westphal Kiwanis Club, former treasurer of the Westphal and Cole Harbour Service Commission and a Past President of the Cole Harbour-Bel Air Minor Hockey Association.

It's my pleasure to give you the Minister of Municipal Affairs.

Thank you very much Ron.

I should explain why I've lost my voice. Several times a year the Members of the Legislature get together to play charity hockey games. We play in a number of places across the province and we were in the valley last night. I think I must have been overly enthusiastic sitting on the bench because my voice is gone this morning.

I would like very much to extend a welcome to each and every one of you this morning. It's so very nice to see such a large crowd. Ron tells me that we're expecting in the range of two hundred people. I'm pleased to see so many combinations of both staff planning people and elected officials. I think it's very important that we see both groups. I also notice that you're like most groups - it's just like being in the church pews, I notice that the seats are all vacant up front! I don't know what the significance of that is.

This I understand is the ninth annual session sponsored by the Community Planning Division of Municipal Affairs so obviously we've started to develop quite a tradition of involvement. I also understand that it started out primarily with professional staff in the early years and now has evolved to where there's quite a mix of both elected people and staff and that's to be commended. I think that's an excellent idea.

You all face a very interesting challenge both as municipal politicians and as planners because everyone wants controls and everyone hates controls. It is something like what people think about politicians - there's very much a love/hate relationship. They either love you or they hate you - there's nothing in between. Ever since I've been elected I've been used to dealing with that kind of situation on a day-to-day basis. I represent an area which Ron talked about, the communities of Cole Harbour/Westphal and Eastern Passage, one of the real growth areas in the province. That always leads to lots of challenges for the planners and the politicians. Pressures of change and pressures of constantly bringing new areas "on stream" makes for a very interesting exercise.

The Planning Act will have some changes coming about again this session of the legislature. We're proposing a few amendments which I believe reflect many of the suggestions that have come from you people. It's a very interesting challenge. I had staff go through some of the proposed changes with me a couple of weeks ago. When you're trying to deal with individual amendments of the legislation and pick them out, I'm sure many of you are aware - particularly the elected ones, that it becomes a very complicated process. Ron briefed me for an hour and a half, during which time I think I probably drove he and other staff members crazy with my multitude of questions. Afterwards I said I felt like a guy getting ready to go into an exam and gunning for 51%. I'm not sure I understood it all. I think understanding planning and why we want controls, what we want to do with them, and how they can benefit people, is not only a challenge that you face but I think a duty and a responsibility that you have to sell on the street to the people you represent. I know in dealing with my own colleagues that a lot of changes are an awful lot easier to sell to them if they understand them. The worst situation always happens when they have some individual or personal interpretation on a particular piece of legislation that may or may not be correct - usually it's maybe half right. That's a bigger problem than no knowledge at all. That I think is the challenge you face. It's one you're always going to face because it's a constantly evolving process.

I also might say that I think you're going to face an interesting challenge (particularly those planning people and elected people who represent more strongly urban areas) because it's obvious from the government's Throne Speech, provincially and I think even on a more national level that we've got to put a renewed emphasis on social housing in this country, particularly in this metropolitan area. I think you're going to see quite a trend on that. There was quite an emphasis on that in our particular Throne Speech and in the budget deliberations that have been going on in the last few weeks. Housing has been a major item of conversation. That's where I think you people play a very key role. We need social housing. Again, it's one of those things everyone wants but nobody wants next door to them.

That's the duty and responsibility you people have, to sell that out there. We've got to do a better job providing for those who are less fortunate, less able to provide for themselves but we've got to do it in a way that's accepted in the community - both for the community's sake and also for the sake of those people who are utilizing the units that are made available. Mixing units in neighbourhoods - blending them in - is very important. Also we're probably going to have to have more intense use of land in many of our urban areas. Intense may be the wrong word because we're going to need a lot more infill housing if we're going to deliver social housing at reasonable cost. It doesn't do much good to put it all out in the suburban areas or in some of the very expensive downtown areas and go with units that are up in the 60 and 70 thousand dollar per unit range. It simply doesn't meet the social housing needs and it simply means that at that price we won't deliver anywhere near the number of units that are necessary so we're going to have to sell to a lot of people and a lot of the neighbourhoods the idea that this is a benefit to the community and that when it benefits the community it benefits them. I think that's a challenge you people are going to be asked to deliver on over the next several years because it's not just something that's arisen with the publicity campaigns that were undertaken in Halifax-Dartmouth by certain groups, but I can assure you that this is getting national attention. Both the Federal Government and C.M.H.C. are concerned about how we can deliver more social housing than we have in the last few years because very frankly we've been delivering a great preponderance of senior citizen's housing. That's great! Any politician will take senior citizen housing because it's pretty well accepted in the community no matter where you want to put it. But the same situation doesn't exist with many of the other housing units.

I hope you might consider that in some of your conversations over today and tomorrow, you might dwell on that. It's not a formal topic on your agenda, not directly, but I believe it really is in some of the topics and some of the seminar sessions you have. I think it's a topic which you people will be called upon to take a lead in over the next twelve months to two years. I for one (being the new guy on the block at this particular job) would be very anxious over

the next six months or year to hear your thoughts and views on some of these areas or some other areas where our controls are working (or not working) or concerns which are not receiving attention. Two or three planners in the province have taken the opportunity to write to me directly expressing some thoughts and views on some far ranging subjects. If anyone else feels they would like to do that I assure you that it will be read and it will be considered because I think being out there on the front lines you bring a unique perspective and thought process. You see how people react particularly in the rural areas of the province where it may be a little tougher to sell land use controls, subdivision by-laws and regulations, and all of the associated items that go with that.

Over the next period of time and I don't mean next week necessarily, but next month, six months from now, I would welcome dialogue from people like yourselves, both the elected officials and the professional staff, in areas where you think you can make changes and make things work better. I hope you will consider that over the next couple of days; I know you have quite a number of very interesting topics and discussions on your program. I also think the Community Planning Division considers it truly successful when you're all here together and your dialogues are extensive. Probably the discussion that takes place over coffee is just as important if not more important than some of the discussions you will have at your formal sessions. So I wish you well and hope that you will gain a lot from the next couple of days, and that you will take the opportunity to transmit a lot of those interesting ideas and thoughts that you have back to us.

MUNICIPAL PLANNERS: THEIR ROLE IN LOCAL GOVERNMENT

Ron Clark
City Manager
City of Saint John

It's indeed a pleasure for me to be here this morning and I greatly appreciate the invitation to participate in your seminar. I just want to echo the comments of your Minister by saying that these kinds of get-togethers, where you're able to bring together people with a common interest: professional planners, students of planning, elected representatives; I think it is a wonderful forum to talk about the kinds of issues that seem to be on your agenda for the next two or three days. I think the Department, and the Government needs to be complimented for bringing people together to discuss these kind of issues.

I have spent the last five or six years outside the mainstream of city planning. Recently, I have spent most of my time in the Saskatchewan Department of Finance and last year at school in Boston. However, I can state enthusiastically that planning is quite frankly, my first passion. I have a very strong affinity for planning - for city planning particularly. The planning profession is something that holds a great deal of interest for me; both in terms of our role as planners and our role as a planning profession. While I don't want to apologize I will say that my remarks this morning are ones that represent more of a challenge to the planning profession and to planners. However, I hope those of you in elected positions who deal with planners on a daily basis will find some interest in my remarks. Because of the views I hold about the planning profession and about our role as planners, I want to say quite candidly that I'm going to take some latitude with respect to the particular topic on this morning's agenda. When I look at the conference brochure it is clear that you are going to hear two days of pretty detailed discussion on land use issues, zoning and a number of the technical aspects of the planning legislation here in Nova Scotia. Accordingly, I'm not going to spend a great deal of time talking about those specific matters. Rather, I'm going to take the liberty to talk more about the larger public agenda that I think planners have had a role in, or should have had a heavier involvement in, and I just hope that my departure from the general conference theme is not exceeding the courtesies extended to a guest speaker.

What I really want to say today is that I'm not sure that "planners need to re-emphasize the rationale for the basic land use planning tools," to quote from your brochure, because frankly my view is that I'm not sure planners ever left the security of subdivision by-laws, zoning, site plan controls and discretionary use provisions. Occasionally, we've become very creative and we've used imaginative concepts like planned unit development and transferable development rights and zero lot line subdivisions. And I'm not saying, and I want to be clear at the outset, that those technical abilities that we possess as planners are not insignificant. I think they're very important but I want to say that these are really just planning tools and I think that as tools they tend more to represent our penchant for control, for rules and regulations rather than what I think is a broader role we could have played in the past - and I would contend this morning, can play in the future. I think that we've been as planners, little more than what I would choose to call footsoldiers in the pace of economic and social change. Rarely have our voices as planners influenced the public policy debate or debates of political strategy.

Therefore, what I want to do for a few minutes this morning is set aside the specific issues of land use controls and associated techniques which I'm sure you'll discuss in the next couple of days. Rather, I want to speak to the larger question of planners, the planning profession and our performance in confronting a number of major public policy issues, as well as our role in shaping the economic and social agenda of the last four decades. I'm going to assert this morning that our profession does have some valuable skills and some unique talents. Planners have the very real potential to significantly affect public policy. Earlier, the Minister threw out the challenge with respect to social housing in Nova Scotia and I think it's one that all of you should pick up and run with. However, I want to suggest that our contribution as planners is better known and better acknowledged because of our technical expertise, rather than for other policy areas where I think we could have played an equally, or perhaps even more pervasive and important role.

What I'm going to argue is, that I believe as planners and as a planning profession we'd had, unfortunately, very little impact on important public policy debates over the last few decades. I'd like, with your indulgence, to take a trip back through the last forty years and raise what I think are a number of important public policy discussions with respect to urban and social policy issues which I think, certainly as planners we should have played a much more fundamental and important role. I would further argue that those of you in municipal government could have used planners and people with our background to enrich and expand the debate on a number of these important topics. I'm going to start our journey at a point immediately after World War II. I think that in many respects that this point is threshold for Canada - the time after World War II where we rapidly began to move from a wartime to a peace time economy. A time of enormous social and economic change for Canada. We nurtured a national desire to put people to work and to build housing in this country. We saw unprecedented urban growth and we witnessed unparallelled urban change as a result of this pervasive transformation. My fundamental point would be that we saw a very strong bias towards growth in the fifties. Many councils argued that if growth is good surely more growth must be better. The fifties were characterized by the ubiquitous influence of the automobile and the emergence of suburbia as a new urban form - a pattern of urban growth that was quite uncommon to most North American cities prior to that time. The question I would ask when I look at the period from just after World War II to 1960 is "what was the planner's role in response to this period of profound change and growth?" Well, unfortunately my particular view is that we didn't do very much except accommodate and unquestionably support this kind of growth and activity. We didn't challenge the wisdom of large suburban shopping centres. We didn't say very much about the anarchy of the automobile and the associated impact of road construction and freeway planning. Little was said by planners about the deterioration of downtowns or the undermining of transit systems, as we saw traditional

urban densities go from 8, 10 or 12 units per acre to 3 or 4 in suburbia. Certainly there weren't many brave souls in my profession, at least that I'm aware of, who forecast the colossal problems that were going to emerge years later, namely the deterioration of inner city neighbourhoods. Rather, I think the response of planners during that time seemed to be to find ways, as John Sewell asserts in his discussion of the growth and emergence of suburbia in this country, "to make good community planning consistant with the goals of good corporate planning." So we see during this period between 1945-1960, a period of exceptional urban growth in this country. More importantly, however, is that the voice of the planner was timid and meek. I don't believe we did enough to confront many of the major issues of that time, particularly as these relate to the kind of expertise we have. Specifically, the expertise to examine and anticipate the impact and implications of pervasive growth and change. Perhaps it was Jane Jacobs in her 1961 book, "The Death and Life of Great American Cities" who properly characterized the role of planners when she said, "as long as city planners and the businessmen, lenders, and legislators who have learned from planners, cling to the unexamined assumptions that they are dealing with a problem in the physical science, city planning cannot possibly progress. It has found the shortest distance to a dead end." Perhaps an overstatement in the minds of some, but nevertheless the view is consistent with my thesis today - we simply did not play the kind of role that I think we could have.

The uncontested accommodation of suburbia, the emerging dominance of the automobile, the impending decline of inner city neighbourhoods - these were to characterize much of the growth of the 50's and 60's. In my view it is unfortunate that these were mirrored by the largely inert role that planners played during this period.

Let us move through time a little bit further. If the 1950's and early 60's were characterized by the planning profession's unwillingness or inability to foresee the implications of unchallenged growth and change, by the mid 1960's I can assure you there were other people who were starting to do so. We saw a new urban phenomenon in this country in the 60's - the growth of very aggressive community groups which started to question some of the negative and undesirable aspects of earlier growth and development activity. Many neighbourhoods were no longer prepared to accept the questionable implications of what was going on. They felt threatened by unanticipated renewal projects, throughways cutting their formerly secure neighbourhoods, burgeoning parking lots now required to accommodate the growth of the adjacent downtown and unwanted high density development. In response to these changes neighbourhoods began to organize and to offer stiff resistance to these previously unimpeded forces of growth and change. What is so remarkable about this period, at least from my perspective as a city planner, is that perhaps for the first time we found ourselves with potentially the largest and most sympathetic constituency of people in the last fifty years. Simply, by recognizing this new and forceful voice we could have built the potential for a very rich and stimulating debate regarding the nature of urban growth and change. I want to stop at this point to stress that this is not an ideological or political perspective I'm advocating. Rather I think the role of the planner is to expand and embrace more people in the debate about what constitutes a rich neighbourhood or a stimulating environment. That's what's really important and I think that we have not done this. I believe that in the 1960's when we had this amazing opportunity to work with neighbourhood groups, which were starting to push beyond the traditional framework for planning, many in our profession turned their backs on this tremendous resource. Instead of developing processes to enrich the crucial debate on the quality and direction of our cities, we often recoiled, withdrawing inside city hall to mount campaigns of subtle, and unfortunately not so subtle, opposition to these potential new allies.

Often we resorted to our technical jargon and the mystique of planning to suggest that our superior knowledge about planning was what was really important. Regrettably, very few of use would concur with Jack Long, who is an architect and planner and was formerly a councillor in the City of Calgary, with the view that in fact every person is a planner. We professionals were content to assert that our education was superior to the spirit, dedication and passion of local residents. Planning during this period was, as Ken Gerecke has noted in an article on this era, more interested in serving the interests of the property industry and the politicians, than the people so often portrayed as its clients. Planners, said Gerecke, "shun citizen involvement and have concerned themselves most with facilitating growth." In short, states Gerecke, planners are more at ease, "regulating minimum requirements rather than spelling our maximum objectives." Lest you think I've just found some negative comments from radical planners or radical journalists to characterize the planning profession and its shortcomings, let me push this discussion a little bit further by drawing to your attention a report of the Ontario Economic Council - hardly a radical group. Writing in 1973 explicitly about the planning profession, the Council said, "two things are evident, first the senior public planners have in effect been doing very little planning. They have served largely as planning administrators, carrying out chiefly housekeeping functions. Second, they have offered few initiatives and innovations. They have not in any discernable sense emerged as a truly innovative force in the area of public policy formulation, nor equally has the profession as a profession. Its institutional apparatus at that time called the Town Planning Institute of Canada has similarly devoted its major energies to internal housekeeping matters and has offered its members little beyond a basic trade union service." It concludes, most disheartenly, "that the profession has lent almost none of its professional expertise and influence to matters of important public policy."

Well, let's move through the 70's and into the 80's. As we do so, we see more pervasive social and economic change which affects society and certainly, I would argue, has impact on the planning profession. Again, I think this period characterizes our rather curious response to major public policy issues. Specifically, I have selected, from the 1970's one example with which I am somewhat familiar. The 1970's was characterized by a major debate on housing, the escalating costs of urban land, the role played by large landholding interests in most major Canadian cities, particularly in western Canada. Indeed at the time the debate was a very rich and contentious one - one that ultimately prompted a Federal inquiry to determine the root causes of the escalating housing prices in our Canadian cities. I'm sure many of you are familiar with what is commonly referred to as the Greenspan Report. While Greenspan generated a number of convincing ideas and theories about the matter, I think again what's more interesting is what we urbanists or planners did in response to this very pressing urban issue. Again I would argue that our profession did very little to join the debate. We did little to pursue public policy remedies at the municipal level, remedies which may have been effective in lowering the cost of housing for many low income Canadians. For example, I'm thinking here of municipal landbanking. Certainly there's a great diversity of opinion about the merits of landbanking be it by the Province or municipalities. However, all I can say is that in my municipality at the time, it was tremendously successful, and we had a significant impact on providing low cost housing for local residents. But generally, instead of asking those larger questions, planners tended to avoid the debate about housing costs or what might represent unreasonable profits or whether in fact the oligopolistic behaviour of some developers may well have been the root cause of the affordability problem. Again it's not a question that there's a wrong and a right, or that it's simply a political problem. The fact is that at the time it was a major issue,

an issue that should clearly have been on the planner's agenda. However I think we tended, rather than to address the issue, or to engage in the debate, instead to develop clever land use measures and tools such as zero lot line by-laws and planned unit development subdivision and other nifty techniques designed to reduce what were challenged as Cadillac development standards. For many planners, and others, that was the root of the housing problem - excessively high municipal planning standards. Regrettably, and in response to this critique, we engaged in technical solutions rather than attempting to enrich the debate or expand the public's understanding of this crucial issue.

Well, I'll move quickly through the rest of the 1970's, and indeed as they draw to a conclusion we planners begin to feel, as other Canadians do, the very signficant effects of a severe economic downturn. As a consequence, planners feel tremendously threatened as planning begins to be perceived by many as an unnecessary frill at a time of economic restraint and budget slashing. You only had to have been a planner in British Columbia, for example, to particularly appreciate this reality.

As we move into the 1980's, with our collective heads down, we are confronted with another megatrend, namely, the re-emergence of the private sector as the dominate force in our economy. We see, at this time, tremendous political and attitudinal change. The notion of public interventionism is clearly no longer a popular concept. This shift produces, in my view, a new challenge and a new opportunity for planning, as we hear more and more about the need for economic development and particularly the need for municipal economic development. There are currently over 150 communities in this country who engage in some form of municipal economic development activity either with a Department of Economic Development or with a quasi independent Economic Development Commission or Corporation. It is almost trite to state that the situation

has become extremely competitive, not only regionally or inter-provincially but also internationally. As a consequence, cities can no longer sit back and simply expect their province and the Federal Government to guarantee them some piece of the action. Accordingly, the challenge for planners in 1986 is to decide how are we going to respond to this new demand, this new requirement to promote and market our communities. It will be interesting to see what we do as planners, whether we feel that there is a potential opportunity here. I believe there is. Planners have a capacity, to think not only about technical land use matters, but also to think laterally, to take issues that are seemingly disparate and integrate them. I think that is a talent that we have as planners. It will be interesting to see whether we play a role not unlike the 1950's, where we sit back and passively accommodate whatever the market suggests, or whether we will play some constructive, intellectually substantive role in helping to shape municipal economic development strategies. Strategies which are more enlightened and forward-looking, which endeavour to anticipate the impacts and implications of newly encouraged growth. Well, I apologize if you think that this brief and obviously editorialized visit through our brief planning history has been sufficiently selective to serve my own interests. That's not my desire. I believe the vignettes that I've put forward do in fact represent important periods in the last forty years or so of our urban growth and development. These snapshots are not meant to serve as a litany of negative images or horror stories about planners and about our profession. However, I do want to ask you to look back at our discipline's evolution, and consider whether in many respects planners and planning have not dealt themselves out of the major public policy debate. I would contend that a review of these historical periods, and of the literature, would support such a view. Well, if you concur even partially with my analysis, that planners and the planning profession has remained for the most part outside the mainstream of public policy debate and discussion, you might ask yourself why do you think it happened? Well, I think that the problem with planning is that it has evolved without any particular idealogical

or theoretical framework. In many respects the profession has purposely tried to ignore or reject a notion that planning is inherently a political exercise. While politics is a dirty word to many planners, politics is nothing more than the prevalent ideology translated into reality through public policy, and we can't turn away from our public policy responsibilities. I would contend further, that the planners and the planning profession's enthusiasm to sidestep the messy and difficult area of politics has almost by definition led planners to absent themselves from an active role in the public policy process. And it's strange because I don't know why planners have to do that. Your Minister stands up this morning and says, "we're interested in social housing in this province." He didn't say "I ask you," he said "I challenge you to write to me, talk to me." An interesting challenge and one I'm hopeful that people here in Nova Scotia will respond to.

Let me get back to the issue of planning and the political process, but let me be very clear about one point. I'm not suggesting that people in our profession become political planners or political hacks or anything of that kind. However, it is equally wrong in my view, to think that our profession or our training and our advice is somehow detached from the real world of political action. Again, to refer to the literature, in an interesting article entitled "Planning and Politics", Robert Hardy said, "the idea that any policy field, whether it be agriculture or planning can somehow be permanently insulated from a political debate was never realistic, and encouraged a greater reliance on professionsl paternalism and technical expertise than the experts could possible deliver. The planner is inextricably involved in the political process."

I believe that this artificial separation of planning and politics has allowed our profession to be characterized in the following ways:

1. Our profession has become excessively preoccupied with control and regulation and I think that if your were to ask

many, many lay people what comes to their mind when they speak about planning and planners, they'll tell you about regulation, controls and the things you can't do.

2. Our profession has developed a very strong bias toward physical land use planning. We have become adept at advocating what the appropriate use for a piece of land should be and we can subsequently come up with a whole bunch of controls to zone it properly and shape the ultimate building envelope.

3. The profession has stressed planning to be an apolitical science somehow divorced from political issues, a point I stressed earlier.

4. The profession has successfully fostered a very powerful mystique about planning. We've been successful in suggesting that we have this wonderful insight about what constitutes a good community or a good neighbourhood.

5. And lastly, the profession has developed what I would consider to be an inherently anti-participatory style.

You may wish to disagree, perhaps vehemently, with my general observations regarding the limited impact our profession has had on the major policy debates of the last several years. You may further wish to challenge my analysis of how I think planning is best characterized. But these are my observations, based on my own experience, my deeply held feelings about the profession, and from my exposure to the history of planning and the development of this country.

I want to say that this analysis is not designed to be some degradation of our profession. I want to convey strongly the message that I think that we have much to offer and that indeed we've always had much to offer as planners; that the public policy debate at all levels, is an area where we can contribute our skills and our prespective - even beyond the kinds of things you're going to discuss here during the next couple of days. But I challenge you to expand the agenda - the intellectual agenda - to include those ideas and issues we can all contribute to - to discuss

what kind of city, what kind of community, what kind of town, what kind of neighbourhood you want. I would argue that planners can make a significant contribution to that discussion.

Well, Mr. Chairman, I promised to say something about land use planning so let me try and close the loop on my little diatribe. Based on the foregoing it should come as no surprise to you that I do not believe that sound technical knowledge and a detailed appreciation of land use controls is enough to justify our personal or professional role as planners. However, having said this, I want to reiterate that public confidence in our technical ability is essential but it is not enough. It's obviously necessary for us to do our job right. At the level of a particular subdivision, zoning by-law, site plan or zoning contract, it's obviously important that the public receive from us technical competence. I argue that there's nothing about what I am saying here today, in terms of the importance of the larger policy agenda, that is meant to downplay or undermine those important technical strengths and abilities of planners. What I am advocating is that we can do so much more than provide the public and our elected official technically competent advice. Certainly, we have the skill and the ability to assist decision makers in this technical role. However, what I am asserting is that our education, our experience, our training equips us to do much more. In my view our education provides us with the essential talent to engage in a much broader range of public policy debate and discussion.

I asked John Mersereau when he called why he wanted me to speak to this group this morning, and maybe he's now also wondering. He said he wanted somebody who had a background in city planning, who had practiced city planning, and who had moved beyond city planning to the city manager level, to discuss how planning fits into the larger municipal framework. Well, I'm going to answer by stating what I look for in a planner to serve on my management team and support my council. Unquestionably, I do look for technical knowledge,

expertise and ability. Clearly, one must be capable of performing responsibly in the areas of subdivision control, zoning and associated land use matters - the need for those fundamental skills is unquestioned. But I can also say that the person that I want to join my management team and support council on a wide range of important municipal policy matters is one well versed in the macro-economic, social and political issues which confront us. I want a person on my management team who is equipped, and prepared, to participate in a debate on alternative strategies and directions. I can say that the best evidence of my deeds trying to match my own words is to look in your local newspaper tomorrow and you will see an employment advertisement for the Commissioner of Planning for the City of Saint John. As we go through the process of seeking out a new Planning Commissioner, to work for our council and with the rest of my management team, I can assure you the kind of person I'm going to be looking for is one who has a combination of talents - the talents I've been trying to argue for this morning. So I say to you today that while it's clearly important to come together as professionals and as councillors to sharpen and share your technical skills and acquire new insights as to how we solve difficult land use problems, I challenge you also to think about the fact that as planners, with our education, our training, and our experience we are obligated to do much more in support of the larger public agenda, an agenda which clearly embraces large scale social and economic considerations. Finally, I'm going to close with my own thoughts about city planners - they closely parallel those of Alan Jacobs, who is one of my favourite planners. Jacobs was formerly the planning director for the City of San Francisco and a man who wrote a very interesting book entitled, "How to Make City Planning Work". So, as I conclude I'll share some of his thoughts and some of mine of what city planners ought to be.

I believe we ought to have points of view and that we should be prepared to stand up for them. We ought to have something to say about the quality of the urban environment we are involved in shaping. Being top notch technicians is important but it is simply not enough. City planners should not be neutral and I do not believe that our clients at the level of government expect us to be without values or opinions. We must do more than recommend within a democratic process, we must advocate. We must search out ways to permit more people to participate in the debate about the quality of life, the quality of our cities, and the quality of our neighbourhoods. I believe as planners we should value and nuture our dreams and our visions, we shouldn't apologize for having visions and dreams. Unfortunately I think for the most part we've tended to be far too meek. I have my own view as a planner, of our profession and the role we have played. I hope it's not a role we'll continue to play in the future. But, Ladies and Gentlemen, I believe that as planners our worst defeats are in the battles we never bothered to fight.

Thank you.

PANEL DISCUSSION - PERCEPTIONS OF LAND USE PLANNING AND CONTROLS IN NOVA SCOTIA

INTRODUCTION

Greg Haverstock
Assistant Director
Community Planning Division

I'd like to welcome you to our panel on "Perceptions of Land Use Planning and Controls in Nova Scotia". Our objectives are basically to build upon the remarks of Ron Clark, to bring them more directly into the Nova Scotia context, and to try to stimulate some further thought and discussion on planning. We'll be attempting to achieve this by looking at planning from perspectives of several of the actors in the planning system, specifically, the municipal politician, the municipal administrator, the developer and lastly, the planner.

I'll start by giving brief introductions of each panelist and then we'll proceed.

Our first speaker this morning will be Dwight Higgins. He's currently chairman of the Colchester County Planning Advisory Committee and is a councillor in that county. I was talking with Dwight about this panel and he put forward the notion that his most important qualification to enable him to speak about planning was that he grew up in a rural area where people value their freedom to do with their land as they wish; and now lived for many years in a suburban setting where people often value the protection of their property values and the living environment, with that protection in part being offered by land use controls, etc. As for his formal education, he graduated from the Nova Scotia Agricultural College. When he's not involved with municipal affairs he's employed as an agricultural technologist with the Chemistry and Soils Division of the Nova Scotia Department of Agriculture. Among other things, he lectures in land use planning, so he gets involved in planning all across the board. In his spare time he has been a former chairman of the Bible Hill Village Commission and recently a member of the Area Planning Advisory Committee for Bible Hill. They're just completing the five year review of their municipal planning strategy.

Our second speaker will be Bob Shaw who is currently general manager of Clayton Developments Limited and perhaps important to his remarks this morning, he's currently president of the Canadian Home Builder's Association. Bob began his career as a chartered accountant with Peat Marwick and he joined Clayton Developments in 1970 as a comptroller. As many of you may be aware, Clayton Developments developed among other things, Clayton Park in Halifax, and Colby Village in Dartmouth and Halifax County. Clayton Park is one of the first extensively planned new residential communities in Atlantic Canada. It's now been a twenty year project and it's pretty well complete. Colby Village, similarly a comprehensively planned community has been going since 1970. Bob is a former President of the Nova Scotia Home Builders' Association, he's currently Vice Chairman of the Halifax County Industrial Commission, and a member of the Board of Directors of the Urban Development Institute. Some of that background may lead people to have the perception that he's an urban developer and that's certainly the case but since inviting Bob to participate in this panel I've learned of his broad based activities. I recently saw a notice in the paper that his company was wishing to enter into a development agreement in the Municipality of East Hants and his company is also involved in Kings County.

Our third speaker will be Ken Meech. He's currently Chief Administrative Officer for the Municipality of the County of Halifax. Ken has a very interesting background. He holds a Diploma in Public Administration from the University of Western Ontario. I'm not sure where he entered municipal government, but as far back as I researched he started out as the clerk treasurer in Richmond County, where he was jack of all trades, secretary to the school board, etc. etc. He was then municipal clerk and subsequently chief administrative officer in Kings County and since 1980 he's been chief administrative officer in Halifax County. Ken has been the

municipal administrator in municipalities when a lot of planning has gone on. I don't know if he takes, or if we should give him credit for that planning but he's certainly been generally very supportive over the years and he has had extensive experience with planning.

Our anchor man this morning - we'll give the planner the last word - is Bob Elliott. He's currently Director of Planning, Development and Recreation for the Municipality of the County of Kings. Bob began his career in planning with C.M.H.C.; he then joined the Community Planning Division of Municipal Affairs for nine years. In 1971 he joined Kings County as their municipal planner and subsequently became their Director of Planning, Development and Recreation. Among other things during his career, he was significantly responsible for the first comprehensive municipal development plan in a rural area in Nova Scotia, covering quite a broad array of issues, the Kings County plan in 1978.

PANEL DISCUSSION - PERCEPTIONS OF LAND USE PLANNING AND CONTROLS IN NOVA SCOTIA

Dwight Higgins, Chairman
Colchester County Planning
Advisory Committee

One thing that surprises most people as they become involved in a Planning Advisory Committee is the number of different "special interest" groups which they encounter, and how they are pushed, pulled and turned in many different directions by these various groups as they grope their way through the planning process. I would like to take a look at each of these groups, see how they relate to each other and how they influence the character and performance of the Planning Advisory Committee. Since most of you belong in one or another of these groups, you will get a chance to see yourself as you are seen by a Planning Advisory Committee member.

First, let's have a quick glance at a typical member of a Planning Advisory Committee. When you are approached to serve on a Planning Advisory Committee your first reaction, unless you have spent some time on a municipal council, is likely to be "What does a Planning Advisory Committee do?" This is a reasonable, straight-forward question, but you are unlikely to get a straight-forward answer. In the first place, most people don't have a clear idea, and in the second place, the answer can vary a lot from place to place and from time to time. You gather, however, that you are expected to deal with issues such as zoning, subdivisions, protection and preservation of resources, land use controls and things of a like nature.

The second thing you ask yourself is likely "How can planning best serve my community?" With a bit of reflection and neighbourhood conversation, you will be able to come up with some answers. You are familiar with local issues and concerns and have some ideas about how you would like to see your community develop.

So, armed with a few preconceived notions, you trudge off to encounter your first group, namely, the Planning Advisory

Committee itself. Now, unless you are extremely naive, you expect to run into some differences in opinions of what planning is all about, what purpose the committee is to serve and how its goals can best be achieved. Looking around the table, you find seated next to you a young businessman from one of the newer, high class subdivisions in suburbia. He is primarily concerned with zoning; he wants "protection" from such things as mobile homes, apartment buildings, stables, body shops, corner stores, etc. appearing in his neighbourhood. Down at the other end sits a lady from a small rural community. She is not concerned with zoning, or lot sizes, or parking regulations; she wants to be able to protect and enhance the cultural and social character of her community - perhaps securing the services of a full time doctor or starting a community centre or a local park. The older gentleman across from you turns out to be a farmer with fairly large land holdings. He's not convinced that regulation of land use is needed, but he is beginning to feel that he needs some protection from encroaching housing developments.

Each of these examples represents a legitimate issue which the committee will need to consider. The future success or failure of the Planning Advisory Committee will depend to a large extent on the willingness of each member to recognize the pertinence of the other's points of view.

There are two potential weaknesses to a Planning Advisory Committee. One is the tendency of its members to cling to a parochial outlook, without trying to recognize the wider view. The other more serious problem, is that committee members are never quite sure how firm the ground is beneath their feet, how much authority they have, or how much weight their opinions will carry. They see themselves as <u>laymen</u> (a term I hear all too often) and there is a tendency to defer to other people, so called "experts", who they feel are more qualified.

This brings me to the next group, the local bureaucracy; i.e., the municipal staff - the clerk, engineer, planner, development officer, solicitor and others. These people are perceived as

experts by the Planning Advsiory Committee members and perhaps by themselves as well. They serve as the technical and administrative advisors to the committee and they are responsible for administering any policies or by-laws which result form the deliberations of the committee. What sometimes happens when these two groups meet is that the shoe gets on the wrong foot, with staff taking over the role of policy maker. This happens because of the uncertainty of the committee members, and the assumption that that is a staff function. I have no doubt that in many instances staff members do little to discourage that assumption, and in fact have the same assumption.

This group tends to have an abstract approach to planning; policies may be tailored for ease of administration, or with any eye to technical nicities at the expense of local concerns. Many good, innovative ideas don't survive because they don't fit the bureaucratic mold. The most successful planning endeavours are the result of a good balance between staff and committee input.

Another group which you must encounter sooner or later (the sooner the better) is the most difficult group to deal with and it causes no end of problems for those of us trying to develop planning strategies. I'm referring, of course to the general public - business people, developers, organizations, private citizens. These are the real clients, and it is their concerns and expectations to which you must respond. The diversity of ideas and opinions encountered around the committee table is multiplied many times over in dealing with the public, and it becomes painfully obvious that you can't hope to please everyone, no matter what approach you take. There is no reluctance here to state opinions, disagree with the "experts" or to take the committee to task for perceived shortcomings. If you have not involved this group from the beginning of the planning process, your efforts are almost certainly doomed to failure.

There is another group which has a great deal of input in municipal planning, but the likelihood of a direct encounter between them and the Planning Advisory Committee is remote. Their identity is secret, their function not clearly explained, but they have great influence over the municipal bureaucracy, who refer to them with a mixture of apprehension and awe. Whenever the Planning Advisory Committee is being obdurate about some issue or if the staff wants to pressure the committee on a matter the ominous threats are made: "Halifax won't like that!" "You'll never get that through Halifax!" At first you are puzzled by this, until you learn that it's not city council interfering in your business, but that ultimate manifestation of government bureaucracy, the Department of Municipal Affairs.

We are lead to believe that they have final and absolute control over the content and nature of all municipal planning documents. It takes some time to realize that their primary role is to make sure that documents are legally correct and conform to all pertinent legislation. They can advise on the content of the documents and this advice is based on a lot of experience and deserves serious consideration. However, it is given with little or no knowledge of local issues or expectations, and should be considered in that light.

So there you have it. You've met a number of individuals and groups, and you have found very little in the way of a concensus regarding the need for planning, the direction planning should take, or the degree of land use control desired. You are stuck with a real dilemma. Even though you have debated the issues thoroughly in committee, listened to the wisdom of the experts, responded to public opinion and considered the advice of the authorities, and developed a planning strategy that is a real masterpiece it will still be criticized on every side. Some will say it's too complex, some will say it's unnecessarily restrictive, others will says it's not comprehensive enough, that it doesn't go far enough. When you bring this document to council, they will listen to all the criticism, and if the Planning

Advisory Committee is not able to respond convincingly, you just might find yourself back on square one.

I know!

PANEL DISCUSSION - PERCEPTIONS OF LAND USE PLANNING AND CONTROLS IN NOVA SCOTIA

Bob Shaw
General Manager
Clayton Developments Limited

It is interesting to note that three of the four panelists today sat on the Municipal Affairs Department Task Force on the Review of the Planning Act. Since many or most of you work with the legislation you now know what you have before you in expertise today - I for one am still baffled by it, butit's there and it is still a "control" document.

I believe we need planning at all levels of government including the municipal level. I do have a problem with "negative based" planning which results in controls and procedures that are geared to the lowest common denominator of sensibility. Perhaps that is a reflection of society, I would prefer a system that is based on positive principals to encourage imaginative thought.

It has been my experience, not in all cases, that developers and builders often wish to get on with the job - even at the risk of making a mistake; while administrators, including planners will work very hard to prevent mistakes - even at the risk of getting nothing done. In that over simplification I merely wish to point out that without care in how land use planning and controls are dealt with in our communities, we will arrive at a point where provincial and municipal regulatory systems will be designed totally to prevent the undesirable, leaving a bureaucracy that has little power to implement the desirable. The development community is prepared to live with the rules but please let's be positive and not dwell as heavily on the "control" aspect - let's keep moving forward positively.

There are benefits dealing within communities that have a well designed municipal strategy. In fact I have been known to state that there is no level of regulation that I cannot live with. As long as one knows the system and understands the rules and continues to perform economic analysis well - each new layer of regulation often drives away more casual developers, leaving the market for the full time development firm. I could live with

that but it's not necessarily the way to go.

Good planning requires good staff personnel. This stuff is not easy to understand. There is a story of a development officer that phoned up a contractor one day and said, "You can stop digging now, the building inspector was reading your building plans upside down". If you understand that story, you get my point; if you do not I sincerely hope you are neither a development officer nor an inspector.

One of the largest and most commonly held concepts appears to be that developers make gobs of money all the time, and that costs are the expense of the developer who can well afford it. This is just not so. Development can have high returns but only where commensurate with high risks. As an industry it does not out perform other businesses. In the stock market such stock is among the most risky and least stable.

Developers are middle men - generally all costs must be pass-through costs. To the extent they can pass through, the system works - when they cannot - the system stops. In this region we do not enjoy the buoyancy of other regional economies of this country. Planners who would sincerely like to contribute to growth potential in their jurisdictions should keep that in mind. Many by-laws and "control" requirements are expensive and in a "more for less" environment contribute more to impeding growth than preserving the common good.

It is interesting that the FCM, CAHRO and CHBA are all currently engaged in the beginnings of a rather extensive study of regulatory reform in this country. This study will cost some $750,000. It is known that from the point of view of housing alone, that antiquated regulations and red tape contribute heavily to act against increased "affordability" in housing. Studies in the United States have already proven 10 - 15% of the cost of a home can often be attributed to such regulation. These Associations

are committed to such studies and I assure you the results have the potential of being quite revealing.

I was asked to comment for a moment on "development agreements". I have no problem with such agreements. It does require a flexible attitude. They lose a lot of mutual punch if the full flexibility to negotiate a sensible all-inclusive agreement is thwarted by a strict application of traditional engineering standards, zoning by-laws and related regulation. If you are prepared to seek out the best overall plan for a property that meets the local intent and is technically safe and aesthetically pleasing, you have the basis for innovation and progress. If you are not prepared to entertain the full scope of possibilities you have a time consuming and costly mechanism that will not produce results for either party better than those provided by conventional by-law controls.

There are planners and development officers in this world that use development agreements like a drunk uses a lamp post - more for support than illumination. However, I must say it is a useful tool and is generally favoured by developers who know their trade and understand their business.

Here I must soften up a bit and admit that not all developers know their trade nor understand their business. I have no sympathy for such people who cry foul and bitch at every stage of the process. If they are not prepared to do more than their share to understand the nature of the project, the policy framework in which they must operate, and the political and public attitudes towards various project proposals, then they should find a new business.

The best process is based on lots of discussion. I ask each of you to consider a scenario where the positive elements of proposals are identified and built upon, where

the objectives of the municipal unit are explained and encouraged, and where the intent of regulation is given equal weight with the strict reading of the policy. In that scenario we require a conciliatory, informed developer who understands the economics of his proposal, researches his market, has a good technical grasp of the situation and is prepared to stand up and speak for his proposal. Those are the elements of the process that are ideal. In fact too many scenarios are created where the parties claw their way to middle ground often leaving a political decision to be made that is neither fish nor fowl and that often incurs the wrath of the endless public participation process. Work on developing the proper scenario up front and all our lives will be better.

Municipal Planning Strategies must look to tomorrow. If we are to progress in this area we must face change - sometimes in quantum leaps. Progress in this area has often been defined as modelling our approaches after the latest addition to the process as implemented in some boroughs of the City of Toronto. If we are to create the environment for "our" tomorrow, we must be innovative. The communities of Nova Scotia are small enough to be demonstration areas for new ideas not just the recipient of another community's response to some historical problem of their own.

Is it not possible to create a direct co-relation between the municipal planning strategy and the capital budget? This would give drive and certainty to some elements of the municipal planning strategy, in a positive way. Is it not possible to set out annual guidelines on the expectations and needs of a community to assist developers to perceive the possible ways that markets could be better served? There is a politics to planning and to development control procedures. It requires balance. If the status quo exerts the force we have all seen in debate

before Councils - where does the thrust of tomorrow's needs get a proper hearing, if not from a competent developer, an informed planning staff and well documented reports to municipal leaders?

Society is changing, so is our economic response to rapid change. This tends to put an ever increasing importance on the market place. Those with capital to risk must have the benefit of an informed staff that can grasp the market place and the influencing factors. It would be inappropriate to attempt to resolve all the social, aesthetic and various other municipal objectives through development proposals. This creates the environment for conflict and usually produces ineffective responses to any needs. Markets are not pegged for various needs in our communities as statistical studies might indicate - i.e., we have enough office space, we need more low rise flats, we have enough service stations. Actually markets become splintered as target markets are developed. These are the issues that are attempted to be met by developers - they cannot be controlled by planning totally. I ask you all to have a market awareness for proposals you review. Often they will be attempting to create markets through innovation not just meet accumulated needs that are readily recognized.

This leads to the question of climate and environment that is so much a part of the process. You have the power to influence that aspect. In a competitive situation whether it is a developer versus developer or municipal unit versus municipal unit, the actual or perceived climate for innovative development is a significant factor.

To return to the title of the panel today, 'Perspectives of Land Use, Planning and Controls in Nova Scotia'; those are some of mine. I guess, however, I will live or die based on some of yours.

PANEL DISCUSSION - PERCEPTIONS OF
LAND USE PLANNING AND CONTROLS
IN NOVA SCOTIA

Ken Meech
Chief Administrative Officer
Municipality of the County of Halifax

Thank you Mr. Chairman. First of all I should thank you for the opportunity to come here today to address the group. It's been some time since I've had this opportunity. I'm not sure I've had an original thought since. I've been involved in the process now for so long that I'm starting to wonder whether I could be innovative any longer.

I did want to pick up on a couple of the comments that were made. Dwight, I just offer you a little advice with respect to the initiation of policy formulation and development. I think we all would agree that there's a need for it and if the elected officials are not prepared to in fact assume that role then it's only logical to expect that administration is going to pick up on it. The theory is that the elected people are supposed to be the people who develop the policy and we bureaucrats in the administration are supposed to in fact administer those policies but I know, from my experience at any rate, that it seems to have worked in the opposite. Elected representatives seem to be less than interested most times to sit around and have some general philosophical discussions about policy development. So I just offer that advice. If the direction isn't coming, then the administration will fill that vacuum.

I noted in the title brochure today, the title, "Municipal Land Use Planning and Controls", I just wonder is that finally an admission that planning is related strictly to land use? I recognize that tends to be the reality; however, I'm still convinced that we should be collectivley striving to incorporate in the process an overall community development strategy or corporate plan for a municipality.

I was asked today to comment from the perspective of my position as Chief Administrative Officer, and, as was mentioned by Greg, my background or knowledge relative to planning and development. I have been heavily influenced by my experiences at Kings County

and in my present capacity as Chief Administrative Officer for Halifax County. Additionally as Bob mentioned, I did have the opportunity as well to serve as a member of the P.A.R.C. committee. And I guess, in spite of the public, in spite of the elected representatives, and in spite of planners, I still remained positive towards the planning process.

One of the things I was asked to address today was the need for land use planning. Well, from my point of view I don't have any difficulty with the notion that there is a need, be it simply to provide property owners with protection against incompatible development, thereby providing protection for property values and the enjoyment of their properties. From my experience it seems to me the emphasis should be on property values, because while people will come in and suggest to you that they have concerns about this and that and the other thing, I think if you take the time to analyze what's being said, for the most part what people are reacting to is they have some concern about loss of property values. And I don't suggest that in a derogatory way because I think that's only natural and something that's understandable.

Also there is a need to provide a framework for the overall development of the community thereby hopefully through the process establishing some short term and long term objectives which should result in more informed and enhanced decision making. I realize that in the political process, long term objectives really don't have too much meaning, but we keep on trying.

It is important to assist in articulating your priorities in dealings with the Province. I have found from personal experience that as a result of the planning process and the adoption of planning strategies, I have personally experienced situations where I felt we were able to influence a Provincial position on a particular program or project because of the fact that we were able to articulate our position very well,

with good support data. As a result of that we were able to receive Provincial support and it is my contention that without that strategy, we no doubt would not have been able to convince the Province on occasion to see it our way.

Planning can also be used to assist in determining the appropriate allocation of resources. Policies in a planning strategy are an effort to try to provide some element or level of protection to the general public but at the same time, it should also be a document that will provide some direction to the private sector, in particular to the development community as to what the desires and the aspirations of the community are, and what they want to encourage, and what direction they want development to take.

On the negative side, I still believe that most people relate to planning as zoning and building permits which to many is their only exposure to the process. As a result, many view planning negatively because it represents a requirement to deal with bureaucracy in obtaining the necessary approvals. I just make the point that contrary to popular belief, possibly within the planning community, this is all most people really expect from the process. I wonder at times whether or not we continue to try to convince ourselves that everybody out there in the community is anxious to participate in a planning exercise. Now when I'm talking about a planning exercise I'm talking in terms of trying to look down the road in the direction the community will take. I realize that there are many individuals in the community who are quite prepared to donate their time in that process, and I think those people are looking for their local government to provide that direction. And the more I think about it, I wonder whether in fact we're tying to achieve something that isn't all that practical. Or perhaps the reverse is that if we get our own act together regarding the direction we are heading in, maybe it can be turned into a positive exercise and we'll start to generate some interest in the general community. Most of the public participation sessions or the involvement of the public still tend to

zero in on the zoning issues for development controls. I have had some very positive experiences with the planning process itself, in particular with the formulation and the adoption of plans. As was mentioned, I was actively involved with Bob in Kings County in the preparation and the adoption of the first plan for a rural municipality in the province.

Since I went to Halfiax County we have been for the last five or six years very heavily involved in the planning process, and for the past two or three years we've had in place a number of municipal planning strategies and associated land use by-laws. The process itself I think was viewed very positively within the community and I think by Council members and as well as myself and the administration. I now find I'm starting to change my opinion. I'm beginning to become a lot more negative because it seems to me that something gets lost between the time of the preparation or the adoption of the plan, and when we translate that to the specific controls, in particular, the administration of it, that turns the exercise from a positive one to a negative one.

The other thing that happens in practice is that there is an inordinate amount of time spent at Planning Advisory Committee level and at the staff level in dealing with the specifics as they relate to development proposals or applications or specific development. And I think it's safe to say most of the time is spent trying to find ways to get around those rules and regulations, you know the eight foot setback, the fifty foot setback this kind of thing. I must say I've become very frustrated. My point is that I think we should all start re-examining whether or not we're placing too much emphasis on the details and let's get on with the original intent. Let's start doing some effective planning.

A couple of points - I think most here would agree that the planning process is on-going and must react to changing conditions, and to be successful must recognize compromise as inherent to the process. Given that background I fail to understand the attitude of planners which generally gives the impression that compromise on their part is equivalent to selling their soul. At times it's very difficult to get the planning profession to understand that compromise is part of the system and you have to accept and understand at times that not everybody is going to see the world through your window.

The other comment I would like to offer is that as we attempt to put forward our professional guidance and advice, I think we all have to admit, that there's always a degree of subjectivity in the formulation of that opinion. My point is that we should recognize that somebody may see something from a different perspective that yours. People should be prepared to accept that as being part of the process. But if you find after a period of time that P.A.C. and Council is continually rejecting your advice I guess it would be time to take a look at whether you're the right person for the job.

The other thing I want to mention is that with respect to the adoption of a municipal planning strategy and the associated land use by-law, the strategy in my view is not in itself the end all and be all. It will not specifically respond to all potential situations or activities in the future. As a result this means there will be a requirement from time to time to consider amendments to the policies of the planning strategy. In many instances one finds that the issue is not necessarily black and white and will require an interpretation of the plan policies and regulations. This permits the planning professional considerable latitude in interpreting plan policies thereby providing an opportunity to support your point of view.

I was asked to comment on rural versus urban planning. Very quickly on a positive note, it's my view that the planning community has come to the realization that there is in fact merit in applying different solutions or practices and policies for the rural community as compared to the urban community. At least that's been my conclusion as a result of being involved in the process.

I also want at this time to state very clearly that I have great confidence in the planning process which I consider to be one of the key functions in the operation of a municipality. When I talk about the planning process I'm talking in the broad sense. I also have tremendous confidence in the ability of the staff resources with our planning and development functions, and do regularly seek and value their input and advice.

I want to end on a positive note that I do in fact put a lot of stock and weight in the advice and the guidance and direction I do receive from our staff resources. More importantly it's time now to get on with merging the planning process with the specifics and practicalities such as capital programming. I think all of us have talked about this and discussed it now for enough years and I think it's high time we got on with it.

PANEL DISCUSSION - PERCEPTIONS OF LAND USE PLANNING AND CONTROLS IN NOVA SCOTIA

Bob Elliott
Director of Planning, Development and Recreation
Municipality of the County of Kings

On the Evolution of Planning - Nova Scotia and Kings County

Municipal planning in Nova Scotia found a place following the adoption of the Planning Act in 1969. Municipalities began to examine the need to plan for their futures and in the early 1970's some hired staff either through District Planning Commissions or as line departments of their respective administration to provide advice and guidance.

By the late 1970's and early 1980's many municipalities had adopted Municipal Planning Strategies and accompanying by-laws. Today three cities, twenty four towns and three rural municipalities have comprehensive plans covering their entire jurisdictions and another eight rural municipalities have plans covering parts of their jurisdictions. That represents 79% of towns and 54% of rural municipalities with adopted plans, most of these in the last ten years. This, I think, is a remarkable achievement.

Until the start of this planning activity, only the Halifax metro municipalities and Cape Breton had any regular access to planning staff. In all other cases, that I am aware of, planning assistance was provided either through staff resources of the Department of Municipal Affairs or through consultants. The significance of this was that prior to the early seventies planning advice was given at "arms length" and not as part of daily municipal decision making. Planners were called in to solve a problem and once the advice was given they left. Today, I believe it is important that planners and decision makers work closely together to address the issues and problems which face communities. This cooperative effort can produce results.

In my municipality the process which led to the adoption of

the plan was time consuming. Yet I believe it was successful because it was done "in house" with planners, the Council and its citizens working together to define the policies which attempt to achieve stated goals. Others are now experiencing this same success. The process of working together achieved the benefits of a greater understanding of planning and its limitations by the politicians, and a greater awareness on the part of planning staff of the elements of the political decision making process. The result was a consensus which resulted in our adopted plan.

We are currently in the early stages of our plan review. As part of this process we have formed sub-committees to assist the Planning Act Review Committee in reviewing the plan. These committees are made up of volunteers who responded to public advertising. The twenty-nine appointed citizens represent every spectrum of the community both in terms of location and interest or expertise. They were appointed for what they could contribute to the process.

As part of their initial exercise they were asked to identify what was wrong with the plan, and what did they like about the plan. The comments were enlightening. Generally they identified fifty-six 'dislikes' but only seven suggested relaxation of planning policies. Most others either suggested strengthening or modifying policies to better achieve the goals. Not bad for a document with 235 policies.

In terms of 'likes' some of the comment themes were: it is guiding growth, improving the quality of life, preserves property values, strengthens communities, provides known quantities for business and developers, keeps things in perspective, encourages all sectors of the community to work together and raises consciousness about the effects

of land use and abuse.

It is becoming obvious that many peoples' perceptions of planning and 'the plan' have changed, I think for the better, and as a planner, I am pleased to be part of that process.

On the Role of the Planner

Planners are primarily advisors. They do not make the decisions but raise an awareness in people, both citizens and politicians, of the various interrelationships which affect our communities. Not entirely tongue-in-cheek I read a prayer that goes something like this:

> "Oh Lord, give me the wisdom
> to change the world today;
> But let me use it
> in a purely advisory way."

The most representative element of the planning process, theory and techniques in the system of local government, is its advisory nature. To be successful the planner must be sensitive to the realities of what can be achieved within the decision makers mandate.

Planners, in the next several years, must become imaginative problem solvers. There seems to be an expectation that planning can and will resolve the many competing conflicts in our growing communities through differing yet flexible techniques. Instead of building roadblocks we must find ways of responding while still providing the protective elements necessary in the planning system.

As an example the Kings County planning process presented

some unique problems to be solved. These included:

- How to set up a method of reducing the amount of development occurring on good agricultural land without unduly restricting development on poorer lands.

- How to restrict new non-essential business development in the rural areas while recognizing existing businesses and permitting them to expand.

- How to provide some protection for residential enclaves located in a rapidly changing business district.

- How to reduce the amount of land being subdivided in the agricultural area without restricting subdivision necessary to meet the needs of the district.

These problems required addressing. Our role was to measure the magnitude of the problem and offer realistic solutions to reduce the problem to an acceptable level. The solutions, although problematic in some instances were unique to Nova Scotia at the time they were proposed. These included:

- The use of scientific soil information as a direct tool in land use control (soil capability maps).

- Designing a conditional use system with a modified agreement system for expansion (since eliminated under new Act).

- Protected zoning for residential enclaves in commercial areas with automatic transition to full commercial use when criteria met.

- Agreement to amend subdivision regulations to reduce subdivision approval to only one lot per year in the agricultural district.

These examples are provided only to illustrate the fact that acceptable solutions can be found that do not necessarily follow traditional zoning practices.

Peter Martin
President and Director of Planning
M.M. Dillon Limited

Ladies and gentlemen, I'm leaving the last two pages unread because they were to tell you what I really think you should do. I'm going to go easy on you and pretend that everything is fine and you're all great people.

First, the climate for planning. I'm going to deal with this in two ways: first nationally, and that's my crude perception of what's going on in planning in this country and then secondly, I'm going to be presumptious and give you my perception of planning in Nova Scotia or at least what I've learned from an in-depth analysis of some of the sessions over the last day and a half, and random comments from Hugh Porter with whom I'm associated.

Nationally, we are being increasingly recognized. There's a lot of gloom and doom about planners but honest to God we are recognized, we're institutionalized, we're part of government now and thirty years ago we weren't, twenty years ago we were just beginning to be, and now we're there, for better or worse, we're part of it. Planning commissioners are just about the same as Works commissioners, and for those who are planners that's not a bad thing. There are jobs and you're sure that every municipality of a certain size is going to have a planner. The jobs in planning are also broadening very much in range, public sector and private sector. All sorts of people, banks now hire planners - trust companies, real estate companies, etc. and all levels of government and all types of departments in government. It's gradual, it's not going at the great clip of 10 or 12 years ago but we're getting up there in numbers. Nova Scotia, I suspect, is about the same. You've got recognition from your Provincial Government, you've got recognition from your municipalities, and you've got great geographic coverage from Cape Breton to Yarmouth.

The first planning job I went after from metro was for the Halifax City planner. I always think Richard Matthews got

my job really, because I was selected for that damn job and the city manager at that time said, "no planner is worth $7,000.00 per year. The best we can do is $6,400.00, and I thought God if he beats me for $6,400.00 I can't do it, so I never got here and Richard's got my job. In 1954 I was an appraiser here with C.M.H.C., I wasn't a planner, and I think there were only two planners in the province then, Don Bird and someone else, and I can't remember his name. I look around now and I realize in thirty years we have come a long way. Another thing that is good about this conference is not only the number of people here, and the fact that some of them are still here hanging on grimly, but the relationship between politicians and planners and development officers and whatever. There was a little bit of criticism of the Department yesterday, but it seemed to be fairly good humoured and the other thing is that you all seem to be fairly self-confident. That's just something I get out of listening to people talk and it sounds as if you're really quite sort of confident about what you're doing and not nervous the way planners used to be, 'well, I'm not quite sure what I'm doing, and I don't know why I'm doing it'. Now that's the sort of climate for planning here, and it's very encouraging.

The framework for planning nationally is a little different. Fortunately the Feds generally keep out of it and I wouldn't want them to do anything else. We get a little bit of special Federal planning in the Nortwest Territories. After five years they've now announced the Northwest Territories Land Use Planning Committee, and it really is beginning to be taken seriously up there. They get into Indian Affairs and I think fortunately they're going to get out of that in a little bit. You've got the National Capital Commission, you've got C.M.H.C., which is no where near the power that it was 25 or 30 years ago, and you've got Public Works doing some planning, mostly getting rid of their own land at the moment. But it's some sort of hit and miss framework at the Federal scene and I'm not sure we should ever push for anything more.

The provinces have mostly got central planning agencies and they're mostly supervisory of the municipalities, and there is assistance provided. Now I'm a bit concerned about some of the assistance, and that goes for some of the people in this room, because you go out to the municipalities, you tell tham what's good planning, and if you're not careful, you're going to be brainwashing them. You're going to be telling them what you think is good planning from a Provincial perspective and not necessarily what is good planning for them. I don't mean to be terribly critical on this issue, but it's difficult if you're at a senior level of government to put yourself in the place of the locals, and deal with good planning on their terms. That's just sort of an aside to show you that I'm aware of that problem because I used t do the same with Metropolitan Toronto. We used to go out and provide services to the municipalities. We were really brainwashing them into what we thought they should be doing. Provincial planning agencies are coordinating agencies, they are usually not planning. There usually is not a ministry or a department of planning and the same story goes for here, you've got a central agency and it supervises and it assists and it coordinates, but it is not a department of planning. You can add planning to whatever department or agency you want depending on how you see things. I had a fear for a while that in Ontario, where they're all fired up about protecting agricultural land, they would put all the planners over into the Department of Agriculture and Food. That may seem crazy except that's what they've done in the past, there have been occasions when planning has been done in Transportation. Would planning really be helped if someone were to say we're going to have development? And so for the Provincial scene. It seem to me from having listened to many of you talk, that there's a good framework at the municipal level and you've got reasonably decent legislation. I did hear interesting discussion about aggrieved and interested persons, but it doesn't matter what words you use, the lawyers will find some way of interpreting, misinterpreting, and arguing about wording. The legislation is probably good enough. It enables you to get some planning done.

And now, the planning itself. I've covered the climate and the framework, now what about planning itself. Nationally, senior levels of government, Federal and provincial, generally don't plan, except in special cases. There is some planning by departments. In Ontario there has been a strategic land use plan or a series of them done by the Ministry of Natural Resources. Pretty disasterous, unfortunately, planners weren't involved! Municipally, much of the land use planning across the country is used as a basis for development control and that seems to me is the story here too. I don't know whether on the provincial level here, there's enough co-ordination of other departments. I don't know whether there is enough preparing of plans. But at the municipal level, obviously there's a lot of good planning being done. You have good base maps. Everybody's able to talk about it, with knowledge of existing infrastructure and existing land use. You've got municipal planning strategies and the implementation of those plans is mostly achieved through development control.

So, planning is being done right across the country and in Nova Scotia. But how effective is it? Well, nationally, we don't know because there isn't any form of monitoring. It's unfortunate the planners, who really should know enough to check on what they've done, very seldom do it. There are very few reports that deal with evaluation of projects or plans that have been completed. So we don't really know what's happening except every so often somebody updates a plan, a five year review or a ten year review or something, and that gives some idea of how the plan has been doing. But very often there's no direct relationship between the new plan and the old one; you don't go through the old plan and pick out all the things that have worked and not worked and then deal with them clearly and explicitly. Ron Clark said yesterday that we've done some things well. Actually we've done them very well. They may not have been the right

things but at least we did them quite nicely. The suburbs got well planned; they got planned the way the public wanted it, they got planned the way government wanted it, they're neat, and they're organized. You've got shopping centres and houses and separate industrial areas, and there are roads that connect them up and there's a bit of park. You can look at the suburbs, which is where planners have spent most of their effort in the last forty years and you think "that's really pretty good, it's text book stuff." Most of it worked and that's what we were expected to do, and I don't think we should be terribly apologetic about it. I don't blame Ron Clark for criticising us, but on the other hand, what we had to do, we did quite well, and the result is pretty good. There was some questionning on they way. I remember that Hans Blumenfeld wrote a memo to Metro Toronto Planning Board on the frustration of housewives being stuck in a suburban wasteland, where there wasn't much to do except go to a shopping centre that was probably a mile or two away. Hans got into a lot of trouble for that. The Chairman of the Board said, "nonsense, talking about frustrated housewives. My God, you're blaming Metro Planning Board for frustrated housewives. They should have more kids, and they should get on and clean the house better." Eli Comay questionned the shopping centre and he was equally unpopular. He said, strip commercial is not that bad. You don't have to have all that indepth stuff. Actually strip commercial is really pretty efficient. People can walk along the street, push their baby carriages along the street, and it's a good way of using up arterial road frontage. That didn't get very far, but he was criticising the shopping centre and what might happen, and what eventually did happen. And the social housing sites, actually it was the planners who questionned the big housing gettos first and came up with recommendations for smaller sites, against C.M.H.C.'s preference. And more recently, planners have been questionning some of the other government initiatives in planning, the public land banks. Planners have said, why do it? Why does the public have to do it? Isn't it better and cheaper and more efficient to put services in the ground and let the private market sort out the land problem?

And actually when you look at land banks they haven't been terribly good for housing. The Nova Scotia Housing Commission does all right, and Regina, but nobody else in the country does all right out of housing land banks, except they can be quite useful for other purposes. York University is on a Federal/Provincial Housing land assembly project and it used up most of that project. The new Toyota plant in Cambridge, Ontario went into a housing land assembly project. Generally though, not too many of those land assemblies for housing actually get used for housing, but they're very nice to have around if a big industry comes in! There's another one coming into Ontario to be announced soon and that's going on to a land assembly originally for housing purposes. Planners, and some economists, questionned the whole business of social housing, and this is a pet one of mine. I finally persuaded the development industry, it took me five years, that it was in their interest to support the concept of shelter allowance and they now do so every year. They pass a resolution for shelter allowance, and they forward it to the Federal government. In fact, housing affordability is an income problem, not a housing problem. You can't build houses cheaply enough whatever you do, to meet the lower income range. So, planners haven't been out of the policy formulation absolutely, not quite to the extent that Ron Clark said, but I don't blame him saying it because in fact we haven't done enough.

I suppose it's the same story for Nova Scotia - residential areas got planned okay, and they're tidy and efficient, - industrial areas are probably pretty good. Commercial, I don't know, because there's always this downtown versus shopping centre business and I'm not sure how you work out on that basis. At least the downtowns are not gutted, they still seem to have shopping purposes. Environmental issues, I suppose you've dealt with efficiently. I have to say that what I didn't like for years was the whole relationship between the Citadel and office buildings, but even that is not as bad as it seemed to be ten years ago.

Now everybody at this point should be looking a little bit smug, and most of you are, because things look pretty good, you've done alright across the country; you've done alright in this province; you've done what the public expected, generally speaking. Now, that's how effective we've been and the question now is, and Ron Clark put it very well, how do we improve that? Now I don't mind being a little bit presumptious, but I'm not going to be presumptious enough to tell you how you improve the local scene. I'm going to say how I think we might improve the effectiveness of planning on a national scene, and you judge what's applicable to you.

Planning generally, it seems to me, could be much improved by stealing from this environmental impact analysis or environmental assessment business, or whatever you want to call it. By pulling that into planning I mean providing alternatives to projects, and providing alternative methods of achieving projects, and public evaluation. Very often planners don't really get their alternatives to the public, and they don't really go through the evaluation of those alternatives. The environmental impact process forces you to, and we could be much more clear in dealing with alternatives, and the reasons why, if we borrowed some of those techniques. They're planning techniques and a lot of planners use them all the time. I think what we don't do is be clear and explicit about it.

We don't include public facilities in our plans the way we used to, and I don't know why it dropped out. Maybe it was because planners lost a bit of nerve for a while, but we gave waste disposal away to the engineers for example: we should get it back again. It was an unpleasant, dirty, rotten thing anyhow, so we could afford to give it away you can say, but we gave away too much. My firm now has achieved a waste management planning program in Ontario. It's headed by a planner and the client is a planning agency. That's a first I think. We've even given away things like

fire protection. Every fire marshall thinks it's his God given right to say where the fire stations ought to be, but there's no particular reason for it. He's good at fighting fires, he's good at training people to fight fires, but there's no reason why a fire marshall should be particularly good at saying a fire station should be here because that is the optimum location for response time. We've now got a computerized program called Fire Router which we've taken around to some of the fire marshalls and said "look, you don't really know much about location. You probably don't know as much as planners, let us help you locate your fire stations." Now there was a time when we used to do it, not with the computer, we did it by gut but in fact we did it. We shouldn't assume that just because fire marshalls are good at fighting fires that they're also good at locating facilities. The same thing probably goes for schools. We gave away locating schools to school boards and in some areas we've got problems with that. A separate school board can say "we think we may want a site there" and the public school boards says, "well actually we may too" so you end up with two school sites reserved, where in fact everybody knows damn well you'll only need one. That could be sorted out if everybody tried a little harder and if the planning agencies took more responsibility for locating schools. Even municipal buildings - I think that with the push on mixed use, and with integrating uses, and the fact that a municipal building is a public facility just about the same as a shopping centre, planners might look to recommending where a municipal building might go. They might think that it should be combined with a shopping centre. I tried that once, it didn't work, but I still think it was the right thing to do. We have a tendency to colour parks and open space green on a map and say the planners have dealt with recreation. We haven't dealt with recreation at all, we just coloured open space on a map, and the parks department agrees with it based on their knowledge of what's needed, and in fact that's a planning issue. There's no reason to assume because a person's good at running a recreation department that he knows the best place to put a facility. Too many of these things we've given away, we don't put them in plans anymore.

I think we also need to rethink our land use planning; mixed use planning is coming back. One of the reasons is it's more efficient from an energy conservation point of view, if nothing else. I think we've got other reasons. I think it is a hell of a lot more convenient to have corner stores dotted around residential areas, than to have only the shopping centre. I don't like to live more than fifty yards from a corner store. But corner stores are kind of out, and a lot of people don't care. In the absence of the corner store, they get in the car and drive half a mile to buy a newspaper. Compact - we should really develop municipalities more compactly, they really do sprawl. I'm not so worried about agricultural land, it's just an efficient way of doing things. We've got situations now where neighbourhoods can't even be based around schools, because they're so big and the kids can't walk that far. You've got three units to the acre or something like that, and I am assured that modern children cannot walk to school if the density is three units to the acre. Great reason to have more compact development. Blumenfeld said there was a real virtue in high land prices. I think it's terrific, because people just can't afford to buy so much land and we'll have to have higher densities. It will be better for the transit system, better for people walking around, better for energy conservation, and so forth. There is virtue in high land prices. We ought to think about how things are actually used. There's a tendency to use the terms heavy industrial and light industrial. They're still common terms though I don't suppose there's anybody here old enough to remember what heavy and light industrial really means. The meaning gets distorted and people think that maybe they mean heavy buildings or light buildings: they're meaningless terms. They're even more meaningless when you think that some of the so-called industrial buildings being built and operated have densities of sixty workers per acre. We used to plan industrial areas, and I think most people still do, for about fifteen workers per acre. The fact is that there are computers, and a whole lot of high tech things, that don't use much floor space in manufacturing processes. So we have the case, and I

hope it doesn't apply here, where offices are not allowed in industrial areas because they cause too much traffic, because there are sixty workers per acre and that's a hell of a lot of cars!

Another thing that planners don't do very well is to deal with transportation engineers. We let them ride bloody roughshod over us, I think. They say where the transit lines are going to go, and where the highways are going to go: absolutely no reason for that at all. Now that may end because environmental assessment may come in and help planners in that case. There may have to be a discussion of alternatives, which is the best route, or even should there be a route at all, and planners can get in the act. It would be better however, instead of accepting what transportation engineers say about where highways should go, if planners could initiate that. I see from the smug looks that most of you actually do your own highway location and you don't have this problem, but I have it, and we have it in the rest of the country! Where you put the roads and put the transit lines and whatever else, makes a heck of a difference to what happens to land use. I'm not sure we deal with it properly.

We got away with murder on zoning. I know planners really don't like to be zoning specialists, it would be nicer if we didn't have to deal with zoning, but in fact it's been one of the things that's created a lot of our credibility. I think there are some things we don't consider when we recommend zoning, I don't think we're fair. I don't think we think about fairness. I think we probably use a bastardized version of the New York Zoning Ordinance of 1927. I think that's what got it all started, somebody stole the New York Zoning Ordinance of 1927 and applied it to a Toronto suburb, and it got spread throughout the country, and nobody thought to look at the different circumstances. Although it may not apply to everybody in this room, there's a hell of a tendency to take a zoning by-law and say, "that's a good one, that's working everywhere else." The lawyers like it because they can claim precedent, they say "well look, that's been working, you're better to take one that's been working even if it isn't very good than to try to develop something new."

Let's look at home occupations for fairness. I don't know how your by-laws read, but a heck of a lot of them state home occupations shall be permitted for doctors, dentists, maybe a realtor, and that's about it. Some poor person who wants to run a hairdressing salon, which is just about as useful in a neighbourhood as a doctor, maybe more so to a lot of people, can't do it. She can't open her hair dressing salon because it's not a permitted home occupation. That's really dreadfully unfair, loaded in favour of a professional. We do the same with places of worship too. We prohibit corner stores without any real knowledge of why the hell we're prohibiting them, and then we permit a church. Churches cause much more traffic. Very few people drive to corner stores if you've got enough of them, but with churches, everybody drives and they park all over everybody's front yards. They don't care because they're doing it in a good cause, they're going to church. I'll bet a lot of your zoning by-laws permit churches and don't permit corner stores and you never thought of fairness, or the reason, or anything else, and I do the same. Then we've got the question of standards that get into zoning by-laws. They started, I assume, on the basis of health, safety, amenity and they got terribly distorted. I suggest respectfully that you consider looking at your zoning by-law to see how much of it you could discard in the public interest. How much of it can you get rid of? How many standards can you take out of there? There's a awful lot you could take out, and a whole lot of them you could reduce.

I don't know how many people went to the discussion on performance standards but it was a very good one, it was thirty years late in Nova Scotia, but still very good. Dennis O'Hara wrote his paper on performance standards in 1953 and it was very good, and he said just apply them to industrial areas. In other words, if the industry doesn't cause any rotten, adverse affect, let it go in, and he listed about six or seven parameters you could test. Very interesting paper, but I think it was too hot for anyone to handle.

Something has been done with performance standards since but very, very little and we stay away from it to some extent. Ontario for example has noise standards for subdivisions you have to show that noise isn't so many decibels or whatever, and if you have noise more than this certain level you've got to build berms and barriers. You can't see houses anymore when you drive along the highway, you just see these fences, that's noise protection. We've had performance standards for septic tanks, "lots shall be a certain size to enable the tile field to operate," that's a form of performance standard. We stay away from some of the others, I think because it's difficult to administer, because building inspectors have enough trouble. The other difficulty is that you might find that the performance standards show up worse in residential areas than in industrial areas. At my house I have two children who are rock musicians and the noise that we generate at times is far greater than any industrial plant I've ever been to. You'd probably find that more smoke comes out of a chimney of a house than out of a lot of industrial plants. Nevertheless, it does seem to me that a performance standard is the right way to go. We may get pushed to something like performance standards because in fact, performance standards are really why zoning was imposed in the first place. Zoning really was to keep out adverse affects, and performance standards are really the basis for the arbitrary standards that we actually came up with. We might actually get to the point where standards are set so high by municipalities that they can be considered exclusionary; they're high enough to keep people out. Well, that's happened in the United States, it may happen here, and it may happen to any of you. It may be that senior governments should take the position that there is a limit to what standards you can put on housing, for example, the floor area of a house. If some clever architect can design a 350 square foot house, why shouldn't he do it?

Zoning is usually applied two ways. It's applied for property value protection, and that's the way we always sell it, you have certainty of property, you're safe, when you've got a zoning by-law. Everybody likes zoning from that point of view, and that's the real thrust behind zoning. We also

use zoning for development control, and we use it quite differently. What we probably don't do is what Ron Clark was referring to yesterday, which is to have policy before we have the controls, we don't really explain what the policy is. Now none of you may wish to do this but it's quite common, in using zoning as development control, to put on an artificially low density type of zoning, you zone it agricultural or single family detached on three acrae lots knowing perfectly well that's not what's going to get there in the end. That's a sort of holding zone, and you're better to call it a holding zone if you can do so under the legislation, and explain why, than to come up with these other falsehoods. The public can get truly misled because they don't know what's on your mind, they see agriculture, and they really think it's zoned for agriculture. They don't know that in fact you really believe that it's agriculture only for the next year or so. We should be much more specific and precise about this, otherwise we're misleading people.

I don't know how legal development agreements are in Nova Scotia. I asked one or two people here and they didn't know how legal they are either! In a development agreement you can get away with more or less anything, provided you can get the developer to put his signature at the bottom. Agreements could deal with the operation of the uses that are going in, not just the way they're built, but how they're operated. A probably pretty obvious example is the shopping centre. It's possible, since the shopping centre really takes the place of the street of a few years ago that it's where people have the only opportunity to hang out and meet each other. The shopping centre owner though doesn't have to let the people in there when he doesn't want to. He can close at whatever hour he likes. It's caused problems. I don't know how many of you have teenage children who are a nuisance, and most of them are, but there's a shopping centre in northwest Toronto where at Christmas time they really don't like kids sort of cluttering up the shopping centre. They had guards at all the entrances, and controlled kids coming in. At the same time they were bussing old people in. How much can you use a development agreement to control the way a shopping centre owner operates his

shopping centre? You might give some thought to it because at the moment it is almost in the public domain, and it should be, but it isn't.

Subdivisions; a lot of planners really act more as a mailbox for other departments than actually getting involved in the nitty gritty of subdivison design. I'd like to see planners get more involved. I'd like to see them say no to transportation engineers who say you've got to put a collector road right through the middle of that subdivision. I had one case the other night where the planner stood up and said, "yes, it is a good thing to have a collector road through that sudivision, it is better for you, and the transportation engineer said so." A woman got up and said "that's just amazing. I've got a petition with 291 names, saying that we don't think it's better for us at all. Who are you?" And the planner said "well I don't know either frankly, because this is a transportation issue, running collector roads through a residential area." Path way systems; I've had a plan rejected and it sort of burned me because I thought I was doing great to have these path ways to get the kids to school. The parks department said "No we don't like that, it's administratively a problem to have path ways through residential areas. You have to clear them and all that stuff, and frankly we're sort of against path ways these days." I think it's a pity that planners supported the Parks Department.

I think on the other hand we might design subdivisions for what I'll call new issues; transit is one of them. Design a subdivision so that busses really can run around them or at least along some of the main roads. The payoff for designing a subdivision for passive solar gain is not great, and actually in this part of the world, because of the problems of rock and God knows whatever, and I know you're thinking the sun isn't out very much, but it's worth thinking about. Finance - could I suggest that on the non-control items planners really think about finance in their plans and in their evaluation of development projects. Look at the capital needs, the financial impact, both from the public sector and the private sector, tnere's no reason just because

it's a developer's money you should waste it. We could think about the economic and social factors, whether in fact more jobs are going to be created, whether needed houses are going to be provided, whether more services are going to be provided for the benefit of residents. A lot of the evaluation of plans, and a lot of plans themselves, don't deal with those items and maybe they can't.

I referred to monitoring earlier. I'd just like to say that I really think monitoring should be built into the system. Even if you had to do an annual report and say this is what we've done, but I'd like to see monitoring, very little has been done. The Federal Government does a few monitoring projects, they look back to see was it worth the money and was it worth the effort and what did we achieve. Ontario Housing Corporation monitored the zero lot line, if anybody is interested in zero lot line, which is not a very new concept but it is being taunted as one. They did a pretty good monitoring of zero lot line, but generally we don't do it.

And finally, I'd like to say a few words on Ron Clark's extra item, the additional work that we should do. What I've dealt with to now is the effectiveness of planning, and how we might improve that effectiveness. Ron Clark was fairly critical, and I think properly so, about what we haven't done. The battles we've lost are the ones we haven't fought. I'm suggesting that we actually do more planning. If we've overworked, and people quite like to say that we're overworked now, how the hell are we going to do it? I'd suggest we might want to redirect our priorities. Policy formulation, the preservation of agricultural land, I don't really see that as an issue for agrologists. In fact, they come at it from an emotional point of view. I see it as something in which planners should be involved. Environmental impact, I really don't see any environmental issue being left to environmental scientists or worse still, engineers, yet a lot of environmental issues are left that way. Housing, I really don't want to see housing left to architects. Economists have a lot to say about housing too, but actually housing is much more broad than just an economic issue or a design issue. Highway construction which I mentioned earlier, involves planning issues. You can put highways in to provide economic opportunities.

The total of this is that if we actually did a lot of these things, what Ron Clark started to refer to as a corporate plan, we'd have a physical plan plus. Now, since planning will actually expand where government expands, and government expands to deal with immediately perceived problems, we've got an opportunity to forecast where we're going to go. What is government going to do next? If it is doing something maybe planners should be up there and part of it if it's appropriate. We didn't do too badly on environmental issues, we didn't do too badly on energy issues. I hope we're starting to respond to economic development issues, and now there's a question for us: what comes next?

SCOPE:

This session was a basic introduction to the use and practice of traditional zoning techniques in Nova Scotia. It looked at the reasons for using such techniques and the advantages and disadvantages they present for effective land use control.

PANEL:

Bill Butler - Planner
Municipality of the County of Halifax

Brian Malone - Director of Planning
Windsor/West Hants Joint Planning
Advisory Committee

Peter Nelson - Planner
Town of Truro

DISCUSSION:

Bill Butler began the session. He said that generally land use control had as its goal the integration of a variety of land uses. The original purpose of zoning by-laws, basically to protect residential neighbourhoods, has changed in his view. Modern zoning now deals with the locational aspects of all land uses. He also noted a shift in emphasis from traditional zoning to the more flexible development agreements. He suggested that these agreements offered more control over certain types of development than could be provided under normal zoning provisions. The advantages of traditional zoning were that it was easily understood and it lays out all of the development rules for a municipality.

Brian Malone said that in his area, Windsor/West Hants, there was a variety of needs, both urban and rural in nature, that required land use control. He defined traditional zoning as including development agreements, comprehensive development districts and performance standards. He suggested that zoning did not allow an immediate response to development opportunity. He thought that zoning controls the negative

impacts of development by preventing things from happening. It does not encourage what is wanted. He also noted a desire for more discretion on the part of politicians at the local level.

Peter Nelson pointed out that one of the failures of traditional zoning was the amount of red tape involved when trying to get a rezoning. There can be a lengthy delay in development proceeding due to public hearings and possible appeals to the Municipal Board.

CONCLUSIONS:

It was generally concluded that while traditional zoning had many faults, it was still an effective means of land use control. Thre is a need though, for more creative thought to be applied to the zoning concept, particularly in its application to small towns and rural areas.

SCOPE:

Subdivision control was examined both from a Provincial and a municipal perspective.

PANEL:

John Barss - Provincial Development Officer
Department of Municipal Affairs

Doug Foster - Executive Director
Cape Breton Metro Planning Commission

DISCUSSION:

John Barss began the session by stating that Provincial Subdivision Regulations were prescribed in 1984 to establish a generally uniform subdivision process throughout the province and to provide consumer protection for people purchasing building lots. He said for those areas which did not have subdivision regulations, lots could be created which were too small for building purposes and/or which did not have access to a public road. Another problem identified was that because land could be subdivided by deed, there were few subdivisions prepared and even fewer which were filed in the Registry of Deeds.

Mr. Barss continued with a brief summary of the Provincial Subdivision Regulations and ended his talk with what he felt outlined were the major advantages of subdivision control - much better consumer protection, much less confusion for the legal profession, and much better property information.

Doug Foster opened by describing his experience with subdivision control in the County of Cape Breton. The County adopted a Subdivision By-law in 1980, which, along with the establishment of a Land Registration and Information Service office, led to the formation of a good property information base in the county. Mr. Foster considers good property

information essential for any planning exercise, particularly for rural municipalities with urbanizing areas.

The adoption of the Subdivision By-law was the source of considerable frustration for prospective subdividers, especially in the beginning when subdivision control was new and not understood. Mr. Foster said that a number of amendments to the by-law were necessary and would advise other municipalities not to hesitate to amend if their by-law is causing unforeseen and unnecessary problems. In spite of the difficulties encountered, Mr. Foster feels that a Subdivision By-law is a most important planning tool.

SCOPE:

This session examined performance standards as a technique for development control. The approach to and application of environmental performance standards was discussed from a theoretical perspective. In addition, its application as an architectural control tool was discussed using the City of Calgary as an example.

PANEL:

John Jones, P. Eng. - Policy Advisor
Nova Scotia Department
of the Environment

Frank Palermo - Professor, School of Architecture
Technical University of Nova Scotia

DISCUSSION:

Mark Poirier, the chairman, began the session by pointing out that the use of performance standards as a technique for development control is explicitly provided for in the 1983 Planning Act. However, unlike the sections on zoning and subdivision there is very little in the way of descriptive content. The use of performance standards can provide alternatives to the rigidity of traditional zoning. The increase in flexibility on the other hand, he said, is often accompanied by increased complexity.

He then introduced the first of the two speakers, Mr. John Jones. Mr. Jones prepared a paper on his topic and that paper is presented here in its entirety. (Also see Appendix A for Nova Scotia Department of Environment, Guidelines, Standards, Regulations, Acts and other Environmental Information.)

ENVIRONMENTAL PERFORMANCE STANDARDS

INTRODUCTION

This discussion will address itself to the consideration of adopting a more informed approach to land use controls, based on an appreciation of environmental processes, the current state-of-the art regarding knowledge of land use/ water quality interaction and the feasibility of employing performance standards to assist planning decisions and to control land use. In addition I will outline briefly the role and areas where the Department of the Environment has the potential or has made a contribution towards this process. I will emphasize the fundamental role of the "watershed" as the basic unit for example where performance standards can be used to assist municipal governments faced with existing land use conflicts and a variety of pressures on the environment (air, land and water).

PERFORMANCE STANDARDS

Within the boundaries of the watersheds, land and water are linked together in an overall system which can be broken down into a number of interlocking subsystems. The role of the environmental performance standard is to identify the subsystems, quantify if possible the natural processes which operate before the land is developed, and to set a standard, preferably numerical, to which the process must perform after development.

TRADITIONAL LAND USE CONTROLS

Traditional land use controls have concentrated on specifying locations and development standards through zoning, subdivision controls and building codes. Performance standards focus clearly on the result of the land use activity. Instead of attempting to protect a natural process, such as runoff, by specifying permitted broad land use categories such as forestry or low density residential, the performance standard demands an assessment of the actual impact of human activity on a specific area of land, and encourages the modification of land management practices at critical points in order to maintain the natural process.

CARRYING (ASSIMILATIVE) CAPACITY ANALYSIS

Another important concept to consider along with performance standards is that of the natural capacity of a system to receive or assimilate the wastes or residuals generated by man's modifications of the environment without damaging the function which supply public benefits. While performance standards focus on the process, carrying capacity analysis looks at the system's ability to absorb development or use without serious damage. For example in the case of municipal water supply watershed protection - the specific public benefit could be the supply of raw water at a certain standard, which will ensure the quality of water (Canadian Drinking Water Standards, 1978), after a specified level of treatment.

Whether or not they are implemented directly as land use controls, the general carrying capacity approach is invaluable in formulating land use plans. Assuming for the moment that the sole objective of such a plan is to protect the quality of a municipal water supply with the least amount of restriction on land use, the first step is to establish a standard for raw water quality which will relate to the natural water quality and to the degree of water treatment existing or desired. Major threats to the water quality are then identified and the capacity of the receiving waters (the lake or river) quantified. The threat - sedimentation or phosphorus for instance - is traced back through the system to the point where the residual is generated, and an on-site standard for that residual is set with due regard for the die-off, dispersal or dilution to be expected. The standard may be set at the same level as the pre-development process, or may permit a certain margin. It may incorporate an economic trade-off provision which would permit the developer to exceed the standard in return for a payment to cover the cost of dealing with the problem downstream.

MAJOR LAND USE IMPACTS AND RAW WATER QUALITY STANDARDS

In order to predict the impact of a land use, five major factors have to be considered - the generation of the residual, its collection and conveyance by natural or man-made routes, its emission into the receiving waters, its dispersal and movement through the body of water, and its assimilation. At present, the general statement could be made that more is known about the first three stages than the last two.

The regulatory or zoning approach will tend to move through the planning analysis - starting with the land use and moving on to its effects. The performance standard or carrying capacity approach of necessity moves backwards from the final quality of water desired, back to the land use and management necessary to produce it. The first step is to set raw water quality standards with due regard for monitoring the level and efficacy of treatment and a suitable risk margin.

TOTAL INPUTS

The next step is to set a limit for the total input of residuals to be allowed in order to maintain the water quality standard. In theory, at least, this will be somewhat easier to do for a residual which is conservative - that is, are those whose effect is directly proportional to its concentration. When biological or chemical reactions are involved it becomes more complicated. At present it is only possible to make quantitative predictions about the response of receiving waters to a limited number of parameters such as phosphorus and B.O.D. Other variables to be considered include attenuation, dilution and recycling from bottom sediments in the case of lakes and streams.

ASSESSING LAND USE IMPACTS

The next step is to make a quantitative assessment of the impacts of various land uses with respect to each parameter in order to establish both the amount of development and the kind of management practices required to keep the total input below the maximum permissible limit. To the extent to which impacts can be measured from existing development and then generalized, there is more available information for this step. It is possible, for instance, to generalize about concentrations of pollutants discharged in stormwater runoff from various land uses. It is also possible to predict with reasonable accuracy the soil loss from a site during construction or cultivation. In both cases the prediction will tend to be relative rather than obsolute.

Where work is really needed is in determining the effects of different land management practices. What difference do certain street-cleaning routines and equipment make to

runoff quality? What is the optimum shape and size for a clear-cut strip in a given situation to reduce sedimentation on nutrient export?

SETTING DEVELOPMENT CAPACITY CONTROLS OR PERFORMANCE STANDARDS

If carrying capacity analysis is being used to produce a development and management plan, the capacity limits must now be translated into land use or population equivalents. Taking phosphorus as an example a very much simplified form of the equation developed would be for a rural sub-division: total phosphorus capacity minus total natural phosphorus input minus other man-made phosphorus inputs divided by amount generated per single septic tank equals number of permissible septic tanks/dwelling units around a lake.

Similarly, it might be possible to establish a ratio of vehicle density/area of impermeable surface to stormwater runoff quality, given certain pollution control systems and management practices.

If performance standards are to be implemented, the total carrying capacity has to be apportioned on some form of per acre (hectare) or per standard lot basis. If a certain number of acres of impermeable surface is the maximum allowable in the watershed to limit the total stormwater runoff into the lake, this figure would be reflected as an allowable percentage of lot coverage, with due regard to certain factors such as steep slopes and poorly drained soils.

At present the most commonly used performance standards relate to soil loss, impermeable surfaces and the rates of stormwater flow. The developer of the land in question has the option of meeting the standards by modifying the design or management practices. For example he could apply a mulch to exposed areas to stop erosion, or build houses on stilts to increase infiltration area, or include stormwater retention basins to slow the stormwater discharge rate. Innovative techniques and designs can only be encouraged if there is sufficient background information to quantify the results, which presently is the largest detriment to more use of performance standards.

CURRENT PREDICTIVE CAPABILITY

The following is a brief outline of our current ability to predict or model the effects of certain land uses, along with the accompanying limitations.

Soil erosion:
- universal soil loss equation will give reasonable reliable prediction (average error 12%) of long term average soil loss.
- to simplify the procedure only the most erodable part of the site need be assessed.
- the equation can be applied to construction, agriculture and forestry.
- the equation is relatively simple to use, and lends itself to the formulation of performance standards.
- a management factor is included in that the slope degree and length and the cover factors can be modified to reduce erosion.
- the equation does not directly estimate sediment delivery to the receiving waters. A sediment delivery ration must be used.
- the equation does not account for gully erosion, thaw, and snowmelt runoff.

Urban stormwater runoff:
- a number of models of varying complexity are available. To link quantity with quality it is usually necessary to use more than one model.
- it is possible to identify the general source and concentration of potential pollutants.

Urban stormwater runoff:

- to a lesser extent predictions can be made about the seasonal or annual loads discharged from various land uses.
- given sufficient data variations in runoff quality during storm periods can be simulated.
- more information is known about B.O.D., suspended solids, nutrients and bacteria. The role of such factors as heavy metals has received less attention.
- it is not possible to quantify the contributions which different sources (e.g., residential or commercial) make.
- little work has been done on the composition of winter and spring runoff.
- even relatively simple models require extensive data on water quality, meteorology, natural watershed features and land use.
- models cannot yet fully assess the effects of management practices.
- models of the response of the receiving waters are limited and the most prevalent used are available for phosphorus (see below) and B.O.D.
- both sampling and storm effects can be highly variable.

Septic tanks (phosphorus loading): - it is only possible to measure the impact of septic tanks in terms of phosphorus. Bacterial input will depend on natural features of the site, how the septic tank and drain field were installed, and whether they are being used correctly.

- using data on phosphorus inputs, the watershed area and the lake area, volume depth, the trophic status of a lake can be predicted.

- the total phosphorus capacity of a lake can be used to give the number of septic tanks permissible if a given trophic state is to be preserved.

- the phosphorus loading model needs good base line data. Its accuracy depends on knowing the yearly phosphorus budget, which results a year of sampling.

- phosphorus adsorption values are needed for the soils in the watershed.

Agricultural drainage - various models exist. Computer simulation models look particularly promising (e.g., Great Lakes)

- the four main sources of potential pollution are fertilizers, animal wastes, pesticides and lime.

- models give annual mean values and do not consider temporal and spatial variations, which can be highly significant.

- the effect of management practices to date have not been measured in detail.

- it is not currently possible to make and area wide assessmert of the effect of pesticides except at a very local level.

DEVELOPMENT OF GUIDELINES FOR THE LAND USER/DEVELOPER

Once a performance standard has been set, theoretically the onus is on the land user or developer to comply, either by limiting the development, by installing control structures or equipment. The onus is also on the land user to prove that these arrangements will in fact meet the standards. It would be a mistake to translate the performance standard back into rigid specifications, but it is necessary to provide criteria with which to assess plans as they are submitted. This again underlines the necessity for more research into alternate design and management practices and their impacts. An effective information and education programme would be a vital component as no computer model or impact assessment technique can account for all possible variables. Finally, an active monitoring and inspection programme would be required to ensure that performance standards were being met.

RESEARCH NEEDED

Research and data collection needed to use and refine existing and future modelling techniques can be grouped as follows:

- determine the effects of frozen ground surface, winter and spring runoff on water quality and quantity,
- quantify various sources of pollutants,
- interpret soils information for planning purposes (e.g., adsorptive capacities),
- determine effects of management practices,
- examine the assimilative capacity of receiving waters (dilution, dispersal, die-off, biological and chemical reactions, and the effects of transmission through the system),
- experiment with new design ideas for site planning and conservation and measure impacts.

ADVANTAGES OF PERFORMANCE STANDARDS AND CARRYING CAPACITY ANALYSIS

Setting aside technical complexities and problems, the performance standard/carrying capacity approach to watershed management offers a number of advantages:

- it can identify the economic and social trade-offs associated with a particular land use,
- it identifies environmental processes and functions and focuses on the results,
- it deals with cumulative effects of land uses which traditional development standards often fail to do,
- on-site control of problems is emphasized, and the burden of control is reduced at critical points such as buffer strips,
- more flexible management can be geared to the natural features of a specific watershed and to the needs and aspirations of the local community,
- innovative design and management techniques can be encouraged,
- the cost of eliminating or ameliorating land use impacts on water quality is shifted back to the developer or land owner. On-site control is, anyway, usually more economical,
- with a good public involvement programme, performance standards and carrying capacity analysis can be a useful education tool,
- performance standards could be set by a provincial agency (under the Water Act, Environmental Protection Act, Planning Act for Policies).

DISADVANTAGES OF PERFORMANCE STANDARDS AND CARRYING CAPACITY ANALYSIS

At the present time carrying capacity analysis is probably in greater use than performance standards, but both have a number of associated problems:

- reference has already been made to the technical difficulties in the collection of data and prediction of response,

- performance standards and carrying capacity analysis do not and should not replace social and economic considerations in planning.

- water quality is liable to fluctuate drastically, particularly during and after rain storms. Many models only predict annual averages which may be adequate for general watershed management but not for municipal water supplies,

- moving the burden of providing impact controls to the developer might in some cases, put the small builder/ operator at a disadvantage in terms of requiring greater initial financing,

- account cannot be made of accidents, spills and unusual hazards,

- defining the full environmental capacity could prove a temptation to develop right up to the limit which may not be desirable for other reasons,

- the fact that economic, social and environmental trade-offs are explicitly identified may cause the method to be rejected as politically embarassing.

THE DEPARTMENT OF THE ENVIRONMENT - PRESENT INVOLVEMENT

If a municipality were to decide to follow some version of the performance standard/carrying capacity approach the Department of Environment, apart from any special assistance that might be given, would have involvement through its regular approval and review processes.

Water Rights Permits: The application procedure is currently being revised. The permit system could be used to assess stormwater drainage, but this is not presently specified. A Provincial stormwater policy with Design Criteria was developed in 1982 through the Halifax County Storm Drainage Task Force. The Water Act places wetlands under Provincial jurisdiction but there is no definite policy regarding their regulation. Recharge areas may be covered by the Act but this has never been tested.

Pesticides Permits: Agricultural use of pesticides, which accounts for a larger proportion of total use, is exempt. At present the Department permits and monitors for the Forestry Sector application of pest control products.

Industrial Wastes Permit: All industries discharging waste into the environment have to get approval of plans and specifications for the construction of the works. A major undertaking normally requires an environmental impact statement.

Solid Wastes: Industrial solid waste disposal requires an Industrial Waste permit. Municipal solid waste disposal comes under a program of financial incentives involving site-selection grants and plan approval.

Sewage and Water Works: These require a Municipal Joint Certificate issued through the Departments of Environment and Public Health.

Subdivision Review: This is largely an advisory process except in certain municipalities where referrals are made to the Department during the subdivision process.

FUTURE ACTION

Make changes in the Water Act to specify activities and areas controlled; to enable the formation of Regional Water Districts and Watershed Advisory Groups; to improve prescribed Watershed Areas as a tool; to provide appeal procedures and opportunties for public involvement.

Prepare watershed survey programme and monitoring schedule for use by municipality of utility operator.

Prepare storm drainage management policy.

Prepare wetlands policy.

Revise subdivision review process. Build in performance standards. Make recommendations enforceable.

Prepare handbook on watershed management for municipalities. (Done - being revised)

Prepare education programme on watersheds, drinking water supply and land use impact.

Provide assistance in setting up watershed advisory groups. (Done)

Provide technical assistance in preparation of watershed plans. (Done)

Draw up research priority list. Include surface water sampling component in other projects where possible to provide base-line data.

Research and assess carrying capacity analysis techniques. Draw up guidelines for use.

Establish municipal watershed criteria for all permit approvals issued by the Department.

Investigate possibilities of running joint pilot projects in natural drainage techniques and erosion control with the Nova Scotia Housing Commission. Projects could be used for demonstration purposes, and documented for the education programme. (New Manual)

APPENDIX "A"

NOVA SCOTIA DEPARTMENT OF THE ENVIRONMENT

GUIDELINES, STANDARDS, REGULATIONS, ACTS AND

OTHER ENVIRONMENTAL INFORMATION

GUIDELINES

1.	Excavation of Slate Bedrock	1981
2.	Construction Practise	1981
3.	Stream Crossing	1979
4.	Water Supply Sampling (in connection with 100 series highway)	1979
5.	Pits and Quarries	1978
6.	Utilization of Digested Sewage Sludge on Agricultural Land	1983
7.	Storage and Handling of Gasoline and Associated Products	1980
8.	Use, Handling and Disposal of Herbicides	1982
9.	Asphalt Plants	1978
10.	Noise	1978
11.	Teepee Burner Operations	1983
12.	Groundwater Protection Guidelines Shawiningan (Library)	1982
13.	Operations Manual - Solid Waste Disposal Sites	1981
14.	Selection of Chemical Waste Landfills	
15.	Site Selection - Solid Waste Disposal Sites	
16.	Assistance - Solid Waste Disposal Sites	
17.	Surface Mining Operations	
18.	Farm Waste Management - Nova Scotia Federation of Agriculture	
19.	Preliminary - Fish Meal Processing Plants	
20.	Air Emission - Sulphate Process Mills	
21.	Operation and Selection of Solid Waste Disposal Sites	
22.	Acceptable Noise Levels	
23.	Onshore Oil and Gas Drilling Guidelines Nova Scotia Department of Mines and Energy	

STANDARDS

1.	Environmental Standards for the Construction of Forest Roads and Fire Ponds in Nova Scotia	1983

APPENDIX "A" (con't)

REGULATIONS

1.	Regulations made by the Minister of the Environment with the Approval of the Governor in Council	1975
2.	Rules Governing the Practice and Procedure at Hearings Conducted by the Environmental Control Council or Executive Committee of the Council	1973
3.	Regulations Made by the Governor in Council pursuant to Section 9 of Chapter 337 of the Revised Statutes of Nova Scotia, 1968, the Well Drilling Act	1985

POLICIES AND DESIGN CRITERIA

1.	Report to Province of Nova Scotia and Municipality of the County of Halifax - Recommendations and Stormwater Policy	1982
2.	Report to Province of Nova Scotia and Municipality of the County of Halifax - Design Criteria Manual	1982

FEDERAL GUIDELINES

1. Meat and Poultry Products Plant Liquid Effluent Regulations
2. Regulations Respecting Deleterious Substances in Liquid Effluents from Chlor-Alkali Plants
3. The Clean Air Act - Many Sections
4. Metal Finishing Liquid Effluent Guidelines
5. Fish Processing Operations Liquid Effluent Guidelines
6. Potato Processing Plant Liquid Effluent Regulations and Guidelines
7. Pulp and Paper (Liquid) Effluent Regulations
8. Petroleum Refinery Liquid Effluent Regulations and Guidelines
9. Ocean Dumping and Control Act
10. The Management of PCB Wastes
11. Thermal Power Generation
12. Metal Mining Liquid Effluent Regulations and Guidelines
13. Air Pollution Guidelines Applicable to Boilers at Federal Establishments

APPENDIX "A" (con't)

OTHERS

1. By-law to Control Industrial Waste Discharges to Municipal Sewers (MOE Ontario)
2. Guidelines for Mineral Exploration (1982) British Columbia (Jack)

ACTS

1. Environmental Protection Act
2. Water Act
3. Well Drilling Act
4. Beverage Containers Act and Regulations

ACTS (OTHERS)

1. Ditches and Drainage Act (municipalities - not enforced)
2. Salvage Yard Licensing Act (PUB)

CONCLUSIONS

Decisions regarding additional use of performance standards belong at the local level, and should be made with full recognition of the social, economic, environmental and health trade-offs involved. For example, in certain watersheds performance standards may be used and a total ban on development or use of the whole area may not be necessary. In many, a wide variety of land uses already exist. To allow new uses or permit existing ones to remain, it is necessary to assess the short term and cumulative impacts as related to the natural features of the particular watershed. Carrying capacity analysis, along with performance standards are techniques which can help, and, in the process, can act as educational tools by linking land use controls more directly with environmental quality.

Various models exist to predict land use impacts on water quality, and work is continuing. Because of the wide number of variable factors involved some predictions may have to be used in a relative rather than absolute frame-work, these could still be very useful in municipal watershed planning. Certain large gaps in research and data collection still exist.

The Department of the Environment is prepared to encourage the development of environmental performance standards for municipal and general watershed plans by reviewing the Water Act, amending legislation revising departmental permit approval procedures; through research, providing guidance and technical assistance to municipalities, and working with the various levels of government to develop public information and education programmes.

Mr. Frank Palermo then spoke, reflecting on his experience with planning in the City of Calgary. He introduced the notion of performance standards by means of analogy. As an example it was proposed that for some purpose there was concensus that the room be dark. The approach of traditional zoning would focus on the process requirements - (light fixtures be off, that shades be drawn, doors closed, etc.). Performance standards would be concerned not with process but with the objective measured (less than a specified amount of foot candles of light). How this was to be achieved would be open.

The requirements for appropriate use of performance standards include clear objectives and specific tests. It would be possible for example to go through the process of review of a traditional by-law and determine how similar objectives could be achieved if rewritten as performance standards. The advantage of such an approach is that it focuses on objectionable impacts directly rather than through more roundabout means of lists of appropriate uses.

In the case of mitigating the negative impacts of specific land uses criteria could be established respecting any use for such impacts as noise, vibration, traffic.

Where setbacks or density are a concern the standard would focus upon such impacts as sunlight or wind effect. The need for clear tests and criteria to evaluate the objective means that research must be undertaken in order to develop standards. In some cases this will be relatively straightforward, in others fairly complex: in certain instances involve measureable elements and in others subjective analyses (e.g., in scale ?: in character ?.

Professor Palermo provided an example of the use of performance standards to influence the impact of buildings on existing infrastructure in downtown Calgary. In the economic and political setting of the late 1970's traditional techniques were not considered appropriate to deal with the pace and complexity of development. Rather than develop some means to control height and setback in the downtown, planning staff investigated the use of performance standards. Through discussion with the various participants in the development process a concensus was reached on the desirability of sunlight reaching downtown sidewalks . After some subsequent research a standard of exposure of downtown sidewalks to sunlight during a specified period of the year was developed. While this standard was relatively straightforward,complex calculations were required on the part of architects to downtown projects in the development of building envelopes. The development industry appeared to accept this type of approach and resisted any attempt to transform the controls into more traditional zoning techniques.

SCOPE:

An overview of the statutory requirements contained in the Planning Act with respect to development agreements and comprehensive development districts, and an exploration of the potential and limits of them through analysis of a Case Study.

PANEL:

Valerie Spencer - Manager, Policy Division
Municipality of the County of Halifax

Peter Newbould - Coordinator
Community Planning Division
Department of Municipal Affairs

DISCUSSION:

This session ran the length of the afternoon. During the first half, Peter Newbould began with a brief introduction to sections in the Planning Act which enable development agreements and comprehensive development districts. In the second half of the workshop a case study was reviewed and then discussed in general terms.

Peter Newbould began his presentation with reference to Section 38(2) of the Planning Act which identifies the areas (subject) that may be dealt with in a municipal planning strategy. In particular he pointed out sub-sections (p) i and ii of Section 38(20) which provides for the establishment of policy with respect to development agreements and comprehensive development districts (C.D.D.) respectively. He noted that in order for development agreements and C.D.D.'s to be used as development tools, policy must be established in the municipal planning strategy.

He went on to say that section 55 and 56 lay out the specifics of development agreements and C.D.D.'s respectively. Section 55 refers to site specific developments and includes matters that the council shall consider prior to approval. This section reiterates that the municipal planning strategy must contain policies related to development agreements and also states that the land use by-law shall

identify the developments to be considered by agreement. The identification may be very broad (industrial or commercial developments) or very specific (one area, building or type of building).

Section 56, he said, refers to developments which are not limited to a small site but to a larger area with possible multiple usage (e.g., residential with commercial and light industrial use). Policies in the planning strategy must provide for the classification of uses that are to be considered and may even specify sizes of parcels to be considered (e.g., 10 acres or more residential with related commercial). Again, as in Section 55, the land use by-law may designate a specific area or areas as comprehensive development districts.

Section 67 sets out terms which development agreements and comprehensive development districts may contain. These include all matters that a land use by-law may contain (such as density, location of the building on the lot, landscaping, lighting) but unlike normal zoning, may also regulate hours of operation and maintenance of the development. Also, where development is taking place near a watercourse or on so called hazard lands, the policy has been established in the municipal planning strategy under Section 56(4), the development agreement may address the protection of the land/water course during construction.

Mr. Newbould pointed out that once the council and owner (or owners) of property enter into a development agreement, the normal procedure for acquiring a municipal development permit are as follows (Section 76(2)). All subsequent owners of properties subject to development agreements or those within a comprehensive development district are bound by such agreements until they are discharged.

Section 66(2) provides for adoption and amendment procedures of development agreements or comprehensive development districts. These procedures are basically the same as for a land use by-law (i.e., public hearing, notices, etc.). Subsection 3 provides for matters which are considered

substantial by the parties. Changes in these areas require the amendment procedure referred to above but for smaller matters, these procedures need not be followed. When a council decides by resolution that the agreement may be discharged by Section 69, the land use by-law shall then apply to that land.

Under the previous, 1979 Planning Act, Peter Newbould noted the refusal of a council to enter into a development agreement was not appealable but in the 1983 Planning Act this was revised so that the applicant may appeal the refusal by the council (Section 72(1)). The decision to enter into a development agreement may also be appealed by an aggrieved person, the Director of Community Planning or the council of an adjoining municipality (Section 71(1)).

The breach of an agreement and the remedy a municipality has he said, is dealt with in Section 73(1). It provides that a municipality may perform any of the covenants and conditions which the developer has neglected and further under Section 73(2) charge all expenses to the owner (developer).

With respect to the subdivision of land he noted that there is increased flexibility where a development agreement is concerned. More particularly a plan of subdivision, as long as it meets any applicable requirements of the province (i.e., Environment, Health, Transportation), may be approved irrespective of the fact that it does not comply with the subdivision by-law.

Mr. Newbould noted Section 113, which deems municipal development plans and zoning by-laws under the former Planning Act to be municipal planning strategies and land use by-laws respectively under the 1983 Act (to the extent that they are consistant with the new Act). He indicated that the previous Act was less stringent and precise with respect to the requirements for establishment and implementation of development agreements. Therefore, it may be difficult to implement development agreements by way of older strategies and by-laws.

This brief overview elicited numerous responses and questions. Both Peter Newbould and Valerie Spencer responded to these questions, sometimes with differing interpretations.

Can a comprehensive development district be more protective than an R1 zone for residential buyers?

Peter Newbould: Yes, there does seem to be more protection for buyers in that what they see on the plan of development will be what is actually built.

Valerie Spencer: Unless the municipality has the wherewithal to follow up on the agreement and has knowledge about the agreement, the development could become a letdown. The council may have to maintain close inspection of the development to ensure that the agreement is followed. Both parties must follow through.

Can certain aspects of a development be regulated which are not specifically mentioned in the Planning Act?

Peter Newbould: The legal validity of such items is dubious and the enforcement capabilities are tenuous.

Valerie Spencer: In the 1969 Planning Act, any portion of the agreement which wasn't specifically mentioned in the Act but which could be agreed upon was valid. ("....registered owner... shall enter into an agreement with council, containing such terms and conditions as the council may direct".). Since the comprehensive nature was emphasized and since not every aspect of an agreement can be included in the Act, two parties should be able to deal with these items and come to an agreement. It should be recognized as part of the development agreement even though it isn't specifically noted in the planning strategy. The intent of the Act and the planning strategy should be considered even if some aspects aren't specifically mentioned in them. For example - can they plant a tree if it hasn't been mentioned?

Has there ever been a problem relating to the enforcement of the specific regulatory aspects of development districts (hours of operation and maintenance of property)?

Peter Newbould: Regulation of the hours of operation by way of a development agreement has never been challenged in the courts by either side.

Valerie Spencer: The maintenance aspect can become a very tricky enforcement issue. Problems could arise for the municipality with respect to developments in which the maintenance portion of a development agreement has not been upheld by the developer. Someone may attempt to sue the municipality if it does not carry out the maintenance aspect of the development since it has the power to carry this out and charge the developer for such costs.

Discussion then centered around Section 66(3) of the Act (matters which are substantial in a development and those which are not). Substantial changes require another public hearing.

How can a development agreement be written so as to minimize the need for additional public hearings?

Valerie Spencer: There are a number of ways that this can be accomplished. Here are a couple of examples for Halifax County:

(1) allow some flexibility with respect to the setback requirements. Imagine that a 33 ft. setback had been established in an agreement, but site condition make this almost impossible. If some leeway is built into the agreement (i.e., plus or minus 10 feet), then a minor adjustment could be made without the requirements of a public hearing.

(2) rather than specify side yards, establish a general guideline in the agreement by using a sketch of the site in question, identifying a percentage of the site that can be built upon. This more general guideline is more agreeable to the developer. He becomes more reticent if every little detail must be agreed upon. It is psychologically advantageous both from the developers and municipalities persepctive to have this flexibility built into the agreement.

For what reason may the council discharge an agreement?

Peter Newbould: There are no reasons mentioned in the Act so a council may discharge the agreement any time it likes. This may be an oversight in the Act but no one has ever appealed this discharge to the courts.

A case study using a hypothetical community was introduced. The scenario of this case involved a proposal for a development which would encompass senior citizen residential housing, commercial retail activity and industrial manufacturing of greenhouses. The material also included a copy of a fictitious land use by-law, planning strategy and petition of protest signed by concerned citizens of this community. The situation called for each participant to put themselves in the role of the planner and to answer a series of questions related to the validity and usefulness of a comprehensive development district. In Appendix "B" there is a complete set of the handouts used. Time limited extensive examination of the case study itself, so after a brief period Valerie Spencer made comment about the case.

She began by explaining that only about 80% of this detailed proposal could be accomplished through an agreement and that changes would have to be made to the planning strategy to accommodate the proposal. This situation reveals that an agreement is usually never straightforward; there are always time constraints (though phasing could be used to extend the time for negotiation); there are always alternatives on how to accomplish the development goal and expertise of both the council and the developer in the area of negotiations and regulations will make the process smoother (usually multi-million dollar investment firms will have more practice in this area than small developers).

Valerie Spencer expressed her belief that more and more developer agreements and comprehensive development districts will be created because councils and the public will be looking for different ways of dealing with development. The public will perceive development agreements and comprehensive development districts as devices to give more protection and the councils will see them as tools for gaining more flexibility in proposals.

There are certain concerns about development agreements and comprehensive development districts which make them less than the ideal planning tool which they have sometimes been proclaimed to be:

- the whole agreement procedure is a negotiation process - a "people process", there is a need for someone with negotiation expertise;

- there is no system to enforce inspect and follow up on agreements;

- there is always a conflict between the public's need to enforce laws on development and council's wish to attract industry and commerce;

- development agreements are intended to be used for good ideas that are exceptions to the rule - not used for discrimination and favouritism.

- the extremes of expectation of the public - that is those who believe the agreement is carved in stone and those who feel that their opposition should stop such a development, particularly once the process has reached the public hearing stage, can cause the council much concern.

Finally, Valerie Spencer had a comment to make on the whole regulatory process which covers development agreements and comprehensive development districts. Ms. Spencer stated that in the past she was a believer in deregulating some of this process thereby enabling it to move more quickly. Now she has gradually come to the conclusion that these regulations and procedures do serve a useful purpose, as a series of checks and balances. Each actor in the process must be responsible to the others. No one segment can be trusted to always make an impartial decision. There will always been some situation in which one party would be tempted to let something slip by.

In conclusion, the use of development agreements and comprehensive development districts are useful tools for allowing some innovative development proposals, giving the council more control and flexibility over the development. On the other side of the coin, we should be aware of the fact that these tools must be used with forethought and knowledge by all those concerned, the public, council, developers and planners.

SCOPE:

An interesting presentation of the types of approaches used in preparing and/or reviewing municipal planning strategies in three different municipalities in the province - Halifax County, City of Halifax, and Kings County.

PANEL:

Chris Reddy - Planner
Municipality of the County of Halifax

Steve Rivers - Planner
Municipality of the County of Kings

Bill Campbell - Planner
City of Halifax

DISCUSSION:

A brief introduction was made by the Chairman, Kim Stewart of the Community Planning Division, regarding the nuts and bolts approach to plan review and preparation. She began by briefly outlining the legislative framework as set out in the Planning Act - 1. appointment and establishment of a Planning Advisory Committee, 2. preparation and adoption of a public participation program, 3. notificatin of Minister and adjacent municipalities that a planning process is underway.

On the theoretical side, the traditional concept of planning was explained as follows: 1. survey, 2. analysis, 3. plan. The systems approach on the other hand involved the following steps: 1. decision to adopt plan, 2. goal formulation, 3. generate courses of action, 4. evaluate alternatives, 5. implementation, 6. monitor/review.

Finally, it was pointed out that planning is often carried out despite several underlying constraints such as problems relating to time, manpower, data (availability and reliability), money and problems of uncertainty.

Chris Reddy described the planning process being carried out in the County of Halifax after a failed attempt in 1978 to prepare a county wide plan. When the decision was made in 1978 to reinstate a planning process, it was decided that sectoral plans should be prepared.

The current planning process was described as "disjointed incrementalism as its peak". In the sector plans prepared by the County, not a great deal of background studies were prepared. Instead, 12 general discussion papers on various issues (i.e, land uses, services) were prepared which would be applicable in any of the areas for which a plan was being prepared. As appropriate, background information is incorporated into the strategy itself.

The basic process involved in preparing sectoral plans is as follows:

1. The boundaries of areas to be planned are set by Council with advice from planning staff.

2. As appropriate, various discussion papers are discussed with the Area Planning Advisory Committee.

3. A generalized future land use map is prepared and the appropriate facts of the background documents (discussion papers) are built into the plan.

To date, the process has proved successful with five approved strategies and six pending approval at this writing.

Steve Rivers presented a perspective of a planning process which involves the review of an existing strategy. The strategy in this case is that of the Municipality of the County of Kings which was the first comprehensive plan for a rural municipality in the province.

Mr. Rivers outlined the original plan concept as follows:
- conservation of the agricultural resource base
- planning for urban and rural areas
- encouragement of urban land uses in growth centres
- encouragement of rural land uses in resource districts
- protection of two lifestyles - urban and rural
- management of rural land within rural land capability concept.

As a measure of success of the planning strategy to date, it was noted that since its adoption in 1979, there have been 70 applications for zoning amendments. Of those, 48 were within the framework of the plan, 16 were rejected and 6 were appealed (only one was lost by the municipality).

With respect to the review, two options were considered: 1. to review the plan or 2. rewrite the plan. The option chosen was to review and 'fine tune' the plan.

As a first step in the review process, the municipality undertook an Issues Identification Exercise to ascertain what was good and bad about the existing strategy. This involved a review of council meetings since the planning strategy's adoption as well as Bob Elliott's review of policies and finally a gut feeling as to what the issues were. One major conclusion that was reached was that it was not policy with which there was a problem, but rather the implementation of policy.

Once the issues had been identified, three subcommittees were appointed - Agriculture, Community Services and Business Development. Members of the subcommittees included those people recruited through an ad placed in the local newspaper soliciting participants in the planning process. Each sub-committee is responsible for identifying issues and making recommendations for amendments to the planning strategy. In addition, four issues papers are being prepared by staff - Population, Agriculture, Community Services and Business Development.

Based on the subcommittee recommendations, a draft strategy will be prepared for council. It is hoped that there will be sufficient public participation throughout the process so that the statutory Public Hearing will be simply a formality. The expected completion date is Christmas 1986.

Bill Campbell discussed the plan preparation/review process underway in the City of Halifax. He began by describing the format of the City's municipal planning strategy. The three component parts are 1. city wide policies, 2. detailed policies for specific areas of the city, 3. secondary or detailed area plan, and 3. programs and procedures.

Since the adoption of the municipal planning strategy in 1978, four secondary plans have been completed, the Heritage Section has been updated, the Central Business District boundary was reviewed and the land annexed from the county has been incorporated into the strategy.

At present, the City has in progress three secondary plans, is involved in a review of the waterfront development area, and a review of the 1982 review.

The underlying conditions surrounding the review process were outlined as follows:

- review agenda to be established to handle specific issues
- issues to be handled separately
- review not to interfere with current work program of the Planning Department.

The organization of the review has the following three component parts:

- an Umbrella Committee of Council and P.A.C.
- Subcommittee of citizens and aldermen to review specific issues
- staff to prepare background documents.

Like Kings County, the City advertised for volunteers which brought in a lot of new people and also has resulted in a longer process.

The following issues were identified as part of the review process:

1. economic development
2. residential environments
3. municipal services
4. environmental protection
5. implementation
6. plan format/wording
7. programs and procedures
8. regional cooperation.

Three subcommittees have been established with two reports including recommendations prepared.

Future plans include completion of the work of the subcommittees, reassessment of the strategy and continuation of current programs and new initiatives.

SCOPE:

Three planners describe the type and extent of public participation in the planning programs in their respective areas.

PANEL:

Terry Brown - Planner
Pictou County District Planning Commission

Ken Smith - Planner
Cape Breton Metro Planning Commission

Harold Verge - Planning Coordinator
Louisbourg District Planning and Development Commission

DISCUSSION:

After a brief introduction by the chairman, who noted that the 1983 Planning Act requires that a municipality adopt a public participation program as part of a municipal planning exercise, the session was turned over to the resource persons. They presented in the order in which they appear above.

Terry Brown, who opened the session, indicated he would provide some general comments about the public participation process, then discuss the process in the Pictou County area and finally drawing some personal conclusions from this.

Mr. Brown pointed out that there is a range of public participation options stretching from the basic (minimum) where the public is merely informed to the maximum where they are involved right from the start through to implementation. In the processes in which he is involved the public participation is toward the minimal end of the continuum. Although this could perhaps be faulted, it does provide for a minimum of disruptions to the process of policy formulation.

He indicated that public participation is a cornerstone of the democratic process, and although it is often cursed it is always defended because of its potential benefits. There is perhaps no other issue in planning for which there

is such a wide range of views as that of the extent of public participation. During the 60's and 70's there was a movement away from public involvement where the public merely knew what the decision was and the process involved therein to a situation where they were actively associated with the decision making. The economic realities of the 80's has influenced and somewhat dampened some of that growing activism. Mr. Brown noted some of the benefits of involving the public in the decision making process. These include preparing the public for the impacts of future development, uncovering potential problems and working towards appropriate solutions, restoring confidence in community institutions, and helping to promote productive orderly and consistent development.

Mr. Brown went on to point out provisions in the Planning Act with respect to the public participation process. He noted the difference between a public meeting and formal 'public hearing' as required under the Act. He also drew attention to the 'purpose' section (Section 2) of the Act which makes the following statement with respect to public participation:

> *"establish a consultative process which will ensure the right of the public to have access to information and participate in the formulation of policies, regulations, strategies, and by-laws, including the right to be notified and heard before decisions are made under this Act."*

With respect to the urban areas of Pictou County he said that the public participation process is basic and perhaps simpler than in other urban areas of the province but nonetheless he feels that it more closely resembles that envisioned by the Act. In a formal sense public participation in Pictou County revolves around the Planning Advisory Committee (PAC) which is made up of councillors as well as citizens. The composition ratio of the P.A.C. is similar to that required by the previous Planning Act. P.A.C. meetings are held at least once a month and notice with respect to these meetings is posted at the municipal office. The public is welcome but seldom attends and committee members' attendance, particularly the councillors is sometimes sporatic. There is also the informal public component and this is by way of the local grapevine. This component can provide both a means for discriminating information about planning matters and ascertaining public opinion about planning issues.

Mr. Brown felt that there were a few conclusions to be drawn from his experience. Firstly, he agreed with the Planning Act in that a consultative process involving the public is necessary but that the elements beyond this bare minimum should be determined at the local level. But he went on to say that although the public participation programs instituted in areas such as his do meet the requirements of the Planning Act they may not be very effective because the process is not thought through carefully. Perhaps too much time is spent both by staff and councils on the matter of trying to answer the question 'why plan' rather than 'how do we bring about effective public involvement'. In fact, he suggested that the failure of planning in the rural municipality of Pictou in the late 70's and early 80's was because of the lack of public involvement. He felt that the notification of citizens, proponents and other interested parties was a weak link in the process. In many other parts of Canada the results of planning meetings are published. He stated that he felt both the formal and informal components of the public participation process are essential elements of any effective public participation process. He closed by saying that he felt that, in order for planning to work and for public participation to function as a part of that process, it is essential that there be commitment on the part of the elected representatives both to the planning process and to public involvement in that process.

Ken Smith stated that he wanted to talk about maximum public participation as per Mr. Brown's definition. He indicated that one of the requirements of the 1983 Planning Act, which in brief states that areas which only have zoning by-laws in place pursuant to the old Town Planning Act be required to prepare municipal planning strategies and land use by-laws in order to retain land use controls, was having a significant impact on planning in Industrial Cape Breton. In particular, it was influencing the speed with which planning was taking place.

He then went on to discuss the Municipality of the County of Cape Breton as a specific example of public participation in the planning process. He indicated that for a number of reasons it was decided not to attempt to prepare a planning

strategy for the entire county. Some of the reasons for that are:

1. The failure of regional planning approaches in the past and the difficulty of trying to compromise with respect to regional and neighbourhood issues.

2. The limited number of staff at the Cape Breton Metro Planning Commission.

3. The limited timeframe within which the planning was to be carried out as required by the Planning Act.

4. The diversity within the municipality with respect to economy, geography, and land uses - everything from suburban areas, to villages, to sparsely populated rural areas.

It was decided to use the districts within the municipality, of which there are twenty, as units for the purposes of planning. District 10 was the first for the following reasons:

1. The Cape Breton Metro Planning Commission has experience in developing strategies for the urban areas such as Sydney and adjacent towns.

2. District 10, which is on the fringe of the city has a suburban-rural mix of land uses which provides a suitable transition to planning for the more rural parts of the county.

3. This district was under severe development pressure and it was changing rapidly.

4. There was a strong desire on the part of the councillors of that district to do planning.

It was further decided to subdivide this district into three areas with two staff members responsible for each area. The public participation programs within each of these areas was then based upon size and density of population.

First, ads were placed in the local media and each household was sent a brochure giving a brief explanation as to why the formulation of a municipal planning strategy and land use by-law was being attempted and what that entailed. In addition, a general meeting was held to explain the planning process in greater detail and to ask people to serve as representatives in the public participation process. Each of these subcommittees so formed met with staff members on a regular basis and prepared drafts of the documents. These were then sent to a Steering Committee of the Planning Advisory Committee for review. This Steering Committee included a chairman, planning advisory committee members and council members. It was at this point that the residents of the planning area were informed, by way of a newspaper style brochure, of the draft strategy and by-law. Following this there was a two day open house to discuss any of the concerns of the residents. Finally, the Steering Committee met to finalize the document and then forward it to the Planning Advisory Committee and ultimately to Council. This entire process took approximately nine months.

Then, upon direction of Council, planning programs were initiated in District 3, 6 and 7. These districts encompassed a much larger geographic area, yet the population was roughly equal to that of District 10. A similar planning process to that in District 10 was instituted. The district was devided into eight sub areas based on population and geography.

Next the process was begun in District 8 and 9 (This planning program is presently ongoing.). This has been a similar process to the other but this time separate strategies and by-laws are being prepared for each district. It has taken about a year to complete drafts of these documents. It is interesting to note that different zones may be created in the two districts even though the land use patterns are very similar. This is a results of the difference in opinion of the interest groups in the area and demonstrates the extent of the grassroots planning that is going on in these areas.

Mr. Smith pointed out that these strategies and by-laws tend to be relatively restrictive, although there is a tendency for them to be increasingly less restrictive the further you go into the rural areas. Generally, it is the

existing commercial uses, be it home occupations and small backyard operations or industrial operations, salvage yards and general contractors that are hardest hit by the new land use controls. More often than not, these uses are made non-conforming. In existing residential neighbourhoods there is a strong push to only allow the development of single family detached dwellings. This is making it increasingly difficult for other types of residential units such as semi-detached, duplex and apartment dwellings to be built.

He went on to say that he feels the strategies and by-laws that are being developed, with few exceptions, are reactionary rather than progressive and further that they are to the benefit of the existing residents who are maintaining the status quo. Therefore, although we are or will be successful in implementing municipal planning strategies and land use by-laws, this success is only relevant to the resolution of neighbourhood issues to the detriment of more regional ones. Nonetheless he was positive about the extent of public involvement in the process, although there was some reservation about the level of involvement and understanding on the part of the elected officials. As a result of this process, he felt that there would be strong public support from individuals involved in the process to uphold these controls in situations like rezoning applications. At the same time, he was concerned that members of Council would not have a similarly vigorous affinity to these controls.

Harold Verge presented his thoughts on public participation in general and more specifically about the public participation procedures that have been used in Louisbourg.

First, he provided some background information about Louisbourg. He stated that Louisbourg is a town of about 14,000 people. In its municipal planning strategy one of the principal objectives was for full employment in the town mainly in the tourism and fisheries sectors. He felt that to a large extent, this objective was being met. As a matter of interest, he indicated that there are about 11,000 people employed in the town at present.

He said that public participation in his view is basically made up of two elements - education and communication. He went on to say that in order for there to be public participation as envisioned by the Planning Act there has to be a commitment of money to support the process, for such things as meetings, publications, and brochures as well as for professional and technical expertise.

The municipal planning strategy for the Town of Louisbourg attempts to weave together people, space, buildings, and money. Mr. Verge feels that planning as provided for in the Planning Act is basically aimed at development control. He sees planning in a broader, more holistic sense encompassing economic, political and social change. Further, he feels that for planning to be effective it has to be tied to action, action which involves the citizenry. He used an example from his experience in Louisbourg. There, litter was a problem. He showed his commitment to trying to solve this problem by going out and picking up litter himself. He then went around to citizens in the town and tried to get people's opinions on this matter. He found that through his direct action (response to this litter problem) he, in some way, was both able to gain the confidence of people in the community as well as help direct them towards solving one of the town's problems. He is of the opinion that it is very important to have the residents of the community involved all the time in the planning and development of their community. This is accomplished in Louisbourg to some extent through the Community Development Corporation. Residents of the town sit on the Corporation's Board of Directors. Among other things, this corporation is responsible for the establishment of workshops in the town, producing products for retail sale. Mr. Verge voiced concern that in many communities public participation only occurs every five years. He says that there is a need to change the planning process, to make it more action oriented so that the people will be tied to the process on an ongoing basis. But the problem with this is that it takes a lot of time and money. He suggests that the Department of Municipal Affairs and the Department of Development, the latter principally involved with the funding part of the process, should be working together in a more holistic approach to planning, one that is aimed more at economic development rather than just development control.

What are the benefits of preparing brochures etc. and distributing them to the citizenry?

Ken Smith: They are useful in informing the people about what is going on in their community and as a result are often a good tool at getting people to come out to planning meetings.

What are your suggestions with respect to guidelines for information brochures directed toward the public?

Ken Smith: Make it short. These should really be a 'Reader's Digest' form of plan drafts.

What are your thoughts about the role of municipal and provincial elected officials and in the public participation process?

Harold Verge: In Louisbourg District Planning and Development Commission there are two town councillors, three county councillors and three Provincial appointees. Within such a framework elected officials are directly involved in the planning process.

Could you please comment on how a municipal planning strategy can identify suitable commercial development opportunities for a community?

Harold Verge: As in the District of Louisbourg case, it is crucial to have someone with technical expertise to provide you with the necessary assistance. Of course this involves money which in our case was made available through the Department of Development. It is important to focus on the development opportunities of a community rather than be bogged down with the development control mechanisms that are desirable.

How do you ensure that people who are directly involved in the public participation program actually have their interests and concerns represented?

Harold Verge: Try to show to such people, by way of a vision, how they and those that they are concerned about can benefit from this process. For example, how a person's child might be able to get employment out of a planning process that has a positive economic development thrust.

Terry Brown: The elected officials can be useful allies in helping to interpret to their constituents the objectives of the strategy and providing feedback to the planners.

SCOPE:

This session examined the affect on planners, the public and the planning process of planning appeals that have been heard before the Nova Scotia Municipal Board. This subject was examined from the perspective of a professional planner at the municipal level as well as by a practicing lawyer.

PANEL:

Anne Derrick, L.L.B. - Buchan, Derrick and Ring

Bob Robertson, A.I.C.P., M.C.I.P. - Planner
City of Halifax

DISCUSSION:

After a brief introduction by the chairman, the panelists in this session spoke from prepared papers. Mr. Robertson presented first followed by Ms. Derrick. Due to the legal nature of the topic and therefore the importance of maintaining the context as well as the detail of the subject matter, and the anticipated interest of this subject in the planning field, these papers are being presented here in their entirety.

Municipal Board Decision and Planning in Nova Scotia

R.W. Robertson

INTRODUCTION

In Nova Scotia, the legislative framework which provides the authority for planning and land use management is contained in An Act Respecting Provincial and Municipal Planning (SNS 1983 c. 9). In general, the Act enables land use management by local government within legislatively prescribed checks and balances such as requirements for notice prior to certain decisions; public hearings to permit all parties to be heard in a quasi-judicial proceeding; and, the right of appellate review of many types of decisions by a provincially appointed administrative tribunal - the Nova Scotia Municipal Board (NSMB).

Throughout Canada, a wide range of statutory review agencies -- like the NSMB -- are operative as "legislatures have entrusted many kinds of decision-making to specialist tribunals rather than the courts because they are more likely to produce better decisions about the subject for which they are responsible rather than the ordinary courts of law."[1] These tribunals undertake a variety of functional tasks[2] and the decisions of these agencies are particularly relevant to practitioners in their respective fields for a number of reasons.

In the case of planning practitioners in Nova Scotia, Board decisions serve two main purposes: (i) interpret various sections of the enabling stature; and, (ii) interpret locally adopted policy plans, and, more importantly, ensure that regulatory decisions are made (consistently) within the context of those locally adopted policies.

BOARD DECISIONS

Since the adoption of the 'new' Planning Act in June, 1983, the NSMB has filed thirty-eight decisions. These decisions provide an important overview of the process of planning in Nova Scotia and a number of issues have been raised by the Board in these decisions.

Planning Reports/Information

In a number of recent decisions, the Board has noted 'errors' in planning reports. These errors range from inconsistencies between maps[3] to problems in referencing specific regulatory controls to appropriate enabling policies of the plan. The increasing complexity of the planning and land use management process makes cross-referencing and proofreading a tedious task at the best of times; however, this type of problem must be alleviated to (at least) increase the credibility of decision-making. Alternatively, the Board may find an "error" to be substantive and simply send the matter back to Council.

The primary issue which results from these types of "errors" is the necessity of Council receiving adequate, accurate information required to make an informed, reasoned decision. In the event that the information supplied by staff is inaccurate, the Board must assess the extent of the error. In Century 21 Market Realty Limited v. Truro, the Board noted...."a patent error in...the Town's Land Use By-law as the reference to P. 203(b) and (c) in that clause obviously makes no sense and is out of context..." In Century 21, the Board found that the error was simply typographical in nature and proceeded to consider the refusal to approve a development agreement on its merits.

In Arenburg v. the Town of Amherst, a resident appealed the authorization by Council of a development agreement pursuant to plan policy. At the hearing, the Board noted that the plan had not yet received Ministerial approval as required by the Planning Act. The Board noted that "as of the time of Council's decision (here appealed) was made, no development agreement could have been approved since there was no municipal planning strategy authorizing Council to approve a development". Thus, approximately six months[4] after Council's decision and at a substantial cost to the Town and the developer, the Board simply returned the matter to Council for reconsideration. In another instance, Benedict v. the Town of Truro -- the Board reviewed the appeal of a development agreement in which the operative plan policy required the assessment of any project against a specified list of criteria. Unfortunately, the planning department in reviewing this proposal deemed some of the criteria were not applicable; however, the Board ruled that Council should have been advised of all relevant information prior to making a decision. The Board stated "(it) has no hesitation in saying that the intent

of Policy 501 and in particular the opening part of it, is that the Council shall regard, at least, all the items contained therein and that is violated that intent when according to the planner, HE SAYS HE CONSIDERED all these aspects and Council deleg to him these considerations. Council cannot do that. It must consider all items set out in Policy 501 and it cannot delegate this function". In this case, the Board allowed the appeal and reversed the decision of Council.

As a more general matter, the volume and complexity of material/reports associated with a Board hearing requires that a planner properly prepare to testify as an expert witness. In many case, it is advisable to prepare a chronology of major events and dates for easy reference on the witness stand and to provide some structure both to the material in the file and, more importantly, to your testimony.

Statutory Interpretation

The planning process in Nova Scotia is structured by the Planning Act and one of the Board's most important functions is the interpretation of that legislation. There are two areas of particular importance to the planning practitioner which have arisen in recent cases.

I. "Aggrieved Persons" (Section 63(1), 71(1))

One of the most pervasive issues which has faced the Board is the question of standing and who -- or which -- groups are capable of launching an appeal as an "aggrieved person" pursuant to the Planning Act. This is a very complex question relating to statutory interpretation and on a more fundamental level, to the role of the Board in the structure of the planning process in Nova Scotia.

Generally, the Board has required that an appellant "...own real property which might be affected by the proposed development." Further, an appellant must demonstrate that "...it has been denied some personal or property right or had imposed upon it a burden or obligation and thus has suffered a legal grievance."[5] These requirements are a most difficult test and will require substantial deliberation

and preparation of material by prospective appellants prior to launching an appeal. Indeed, some hearings -- notably North West Arm Heritage Association v City of Halifax -- have been conducted solely on the issue of standing in which the appellants must discuss (at least in general terms) the merits of the case in order to assist in acquiring standing before the Board. Frankly, I would argue that the structure of the Planning Act and the existence of a specialist tribunal point to the need for wider access to the Board. The issue of 'aggrieved persons' will be addressed in greater detail in this seminar.

II. Non-Conforming Use

Of perhaps more direct relevance to the planning practitioner in terms of statutory interpretation is the Board's decision in M & H Realty Co. Lt. v City of Halifax, and the question of the ability to exchange non-conforming uses. In this case, M & H Realty appealed a decision of the development officer of the City of Halifax refusing to isse a permit for the exchange of one type (sporting goods) or warehouse/ office for another type of warehouse/office (architectural hardware). The Board determined that the sole issue was whether the proposed non-conforming use was a change from the existing non-conforming use and this issue hinged on the interpretation of the (undefined) word "use" as found in S. 85(2) of the Planning Act. The Board ruled that the phrase "a non-conforming use shall not be changed to any other use" was interpreted too strictly by the development officer. The Board stated that "a person's interest in property should not be adversely affected by statute unless the statute clearly and unequivocally makes such provision." The Board further notes that "the change in the product being warehoused and sold will not result in a greater negative impact on the neighbourhood than the existing product line." The Board overturned the decision of the Development Officer and ordered the issuance of a development permit.

This case seems to imply that the onus is on the planning staff to ensure that non-conforming uses may be exchanged provided the impacts of the "new" use are no greater than the existing non-conforming.

Policy Plans and Regulatory Decisions

Policy plans form the main cornerstone of the planning process in Nova Scotia. The requirement for land use decisions including rezoning, by-law amendments, and development agreements to conform to the general policies articulated in the plan has lead to the largest number of appeals to the Board.

In Kaiser et al v City of Halifax, the Board was required to assess Council's approval of a contract for an eight storey, seventy-five foot tall, residential/commercial mix building against the policy direction which stipulated residential development "limited to six storeys or fifty feet" in height. In this case, the application and review had undergone a number of changes complicating the staff position and subsequent Board hearing. Essentially, the Board's decision provided an interpretation of the operative policy "guidelines" including the use of terms such as "scale" and "compatibility". In Kaiser, the Board ruled that the Council decision authorizing a development agreement was outside the scope of the Plan for a number of reasons and upheld the appeal of area residents. A similar analysis and interpretation of the terms "scale and compatibility" was also utilized in Brown et al v City of Halifax. In Brown the Board states that "...the proposed development (116 unit residential project) is not compatible with the existing neighbourhood in that...it is too high in comparison..to the...residential properties". In both these cases, the analysis of "compatibility" by the Board was in contradiction to that provided by staff and City Council and in Brown it was made without the benefit of any expert evidence on behalf of the appellants. The decision in Kaiser and Brown appear to utilize a more rigorous test of "compatibility" than was previously the case (at least within the context of the City of Halifax municipal planning strategy); however, the fact pattern of each case remains pivotal and the role of the planner in the analysis and careful preparation of a staff report is particularly important.

A similar type of impact analysis was undertaken by the Board in Wallace et al v Bedford and Tenwolde v City of Dartmouth. In both cases, a developer appealed a decision refusing to enter into a development agreement in the Bedford example and refusing to rezone land in the Dartmouth case. Essentially, both refusals were the result of the impacts which abuttors felt would be generated by the proposals. In both cases, the Board was required to weigh a variety of expert opinions against generalized policies and make the decision to refuse the appeal in the Bedford case and allow the appeal in the Dartmouth case. An analysis of these decisions highlights the need for staff reports which carefully and completely document the impacts of these types of proposals against the policies of the plan.

The role of policies in structuring decision-making was articulated by the Board, in Behiels et al v Town of Wolfville. In Behiels, the Board stated that "... Council does not have unfettered discretion to deal with development proposals in any manner they deem appropriate. Council is to be guided by the Municipal Planning Strategy in evaluating the proposed development. The Municipal Planning Strategy also required Council to seek the advice of its planning officer and it is common practice for the planning staff to evaluate a proposal and make a recommendation to Council. Whether Council accepts the advice of its staff is up to Council."

In addition to considering the advice of professional planning staff, the input of the public at the hearing stage is a most important element of decision-making process. The Board, in Carey v Municipality of County of Kings states that "...Council should listen to the views expressed at public hearings and consider them in their deliberations. However, the Board is of the opinion that where the views expressed at a public hearing are contrary to the intent of the municipal planing strategy, Council should be guided in reaching its decision by the policies of the municipal planning strategy and not by the views expressed in public hearings." Thus, the primary issue for the Board to determine in these types of hearings is whether a local decision reasonably carries out the intent of the plan.

Notwithstanding the question of consistency between regulatory decisions and policy plans which is raised at most hearings before the NSMB, there have been a couple of instances where the Board looked beyond the specific decision at the adequacy of plan policy. In ATC v City of Halifax, the Board affirmed a resolution of Council rejecting a contract application; however, the decision of the Board pointed out the "urgent need" for the City to more clearly articulate the operative policy to "clarify for prospective developers and citizens at large its criteria for development of the area."

In Behiels, the Board confirmed a Council decision approving a contract development for a multiple unit residential project adjacent to a single family neighbourhood. In this case, the Board stated that the development would "drastically change the nature and character of the Blomidon Subdivision..."; however, the project was within the scope of the plan. The Board suggested that "greater control over the location and effects of high density development is a matter which Council might wish to address when it undertakes a review of its municipal planning strategy." Thus, although the Board is legislatively restricted to an assessment of the conformity of regulatory decision to policy plans there has been some comment in recent decisions as to the sufficiency of those policies.

SUMMARY

In summary, the planning system in Nova Scotia provides for a significant degree of discretion at the local government level particularly in the area of policy formulation. However, this discretion is not unfettered. The Planning Act includes a wide range of citizen involvement and procedural (due process) requirements with appellate review by a specialized tribunal. The primary role of the Board is to ensure fair, equitable and consistent regulatory decision-making within the framework of locally adopted policy plans and the function of the Board will continue to be a most important element in the planning process in Nova Scotia.

FOOTNOTES

1. J. Evans, H. Janisch, D. Mullan, and R. Risk, Administrative Law; Cases, Texts and Materials, Emond Montgomery Publishing, 2nd. Ed., Toronto, 1984, p. 13.

2. For a list of the functions of the Nova Scotia Municipal Board, see Nova Scotia Municipal Board Act, SNS 1981, c9.

3. Kaiser et al v City of Halifax NSMB - 483 - 85 - p.

4. As an aside, the Planning Act (s. 43(4)) requires the Minister to approve a planning strategy within sixty days of the receipt of all documentation.

5. Riverlake Residents Association v. Municipality of the County of Halifax NSMB 448 - 84 - p.

PRACTICE BEFORE THE NOVA SCOTIA MUNICIPAL APPEAL BOARD

Anne Derrick

The Opinion of Experts

The testimony of experts is common place in appeals to the Municipal Board. Expert planners and architects are perhaps the most often used professionals although historians, real estate agents and real estate appraisers have also been allowed to give evidence. The increasing use of experts in the judicial process generally is not looked upon with unqualified approval. Generally speaking, the use of expert witnesses has been critized on the basis that such witnesses express conscious or unconscious bias, add expense to the process and obfuscate the path to truth. Taylor on Evidence[1] (12th ed.) has criticized the use of experts resoundingly:

> *"...it is often quite surprising to see that what facility, and to what extent (the expert's) view can be made to correspond with the wishes or the interest of the party who called them... They do not, indeed, willfully misrepresent, what they think, but their judgements become so warped by regarding the subject in one point of view, that, even when consciously disposed, they are incapable of forming an independent opinion."*

The original role played by experts was that of merely affording assistance to the court or tribunal. Experts were not used as presenters of evidence. Then towards the end of the 18th century, when oral evidence became a custom, experts began to appear in the courtroom, not as assessors of the facts, but as witnesses. The prohibitions against evidence as to opinion was relaxed and an exception to this exclusionary rule of evidence was justified on the basis that experts might state opinion evidence in order to provide the trier of fact with the necessary technical or scientific base upon which the evidence could be properly assessed. Initially

conceived as a means of assisting court or tribunal in the understanding of complex technical issues, expert evidence was permitted only in cases where the subject matter in question was beyond the capabilities of inexperienced persons who could not form a correct judgement without such assistance. In recent years, it has been suggested that expert testimony should be admitted in evidence simply when it may be helpful to the tribunal.[2]

It is not possible to delineate the full range of topics about which only experts can testify. The Municipal Board of Nova Scotia has allowed the evidence of expert planners and architects in particular, in many cases, as did its predecessor, the Provincial Planning Appeals Board. Municipal planners are used to giving expert evidence interpreting municipal planning strategies and justifying a municipal council's decision. It is available to developers to use the expert testimony of their architects and specialized engineers to provide evidence as to the design of a development, its impact and compatibility with municipal planning strategies. Such evidence might well be used to counteract assertions by an appellant that a particular development was inconsistent with a municipal planning strategy.

A great disservice would be perpetrated upon the planning process if the Municipal Board should develop a tendency to rely on expert evidence too heavily. Citizen's and citizen's groups make up a predominant proportion of appellants taking municipal council decisions before the Municipal Board. Citizens and citizen's groups constantly face the disadvantage of lack of resources and money frequently do not have the contacts of influence that would give them access to expert witnesses to assist in their case. Expert witnesses do not come cheaply and citizens usually cannot afford to pay their fees. Furthermore, many experts, particularly planners and architects are most reluctant to testify on behalf of citizens, because to do so will pit them against developers and architects from whom they might hope to obtain business in the future. Many times this will result in citizens having no expert to give evidence on their behalf, even for the purpose of interpreting municipal planning strategies. In such instances, citizens are forced to provide such evidence

themselves and face the obvious problem that their evidence could be discounted by the Board as simply being lay opinion lacking the weight of an expert's knowledge and expertise in the field.

Given that citizens face such difficulty in obtaining the evidence of experts, they are further disabled in the preparation of their case when a municipality is reluctant to share information and resources with them. If a municipality adopts a position that its interests are aligned with that of the developer and on this basis, information is withheld or access to it is obstructed, then the citizen's burden in preparing a case is increased. As appellants, the burden is on citizens to demonstrate through their evidence that their appeal has merit. The appellant faces the burden of proving that they are "aggrieved persons" under the Planning Act, S.N.S. 1983, c. 9 proving that their appeal has merit and in most instances trying to do this without the benefit of expert evidence.

Experts may also figure in the issue of determining if an appellant is an aggrieved person within the meaning of the Planning Act. In the recent case of Edmonds Grounds[3], a developer in challenging the standing of the citizen appellants elicited evidence from three real estate appraisers who were accepted as experts by the Municipal Board. Although at the time of the appeal the Municipal Board made reference to this evidence as "crystal ball gazing", in the written decision the Board referred to appraisal evidence that the appellants' homes would not be injuriously affected by the development as "convincing". Citizens could no more hope to obtain the services of three real estate appraisers and pay for the preparation of their reports for the purpose of establishing that they were aggrieved on the basis in injurious affection than fly to the moon.

Under Section 9(3) of the Municipal Board Act, S.N.S. 1981 c.9 the Board may from time to time engage experts to assist the Board in an advisory capacity concerning matters or subjects within the jurisdiction of the Board or in question before the Board.

Experts may also be of great assistance to parties generally and citizens in particular in assisting them in understanding their case, preparing for it and most particularly preparing questions for cross-examination of the expert witnesses of developers and municipalities. In fact, a planning expert could be of considerable assistance to a citizen's group in preparation of a Notice of Appeal under the Planning Act from the decision of a municipal council.

Function of the Board as part of the pre-hearing appeal process.

The Planning Act, S.N.S., 1983, c. 9 refers in Section 2 to the purposes of the Act. The following purposes are enumerated in the preamble:

"The purpose of this Act is to

> *(c) establish a consultative process which will ensure the right of the public to have access to information and participate in the formulation, policies, regulations, strategies, and by-laws, including the right to be notified and heard before decisions are made under this Act; and*
>
> *(d) provide for the fair, reasonable and efficient administration of this Act, in order that sound development may be encouraged.*

The Municipal Board is set up under the Municipal Board Act, S.N.S. 1981, c. 9, which directs the Board in Section 4 to perform "such duties as are conferred upon it by...the Planning Act..."

The jurisdiction of the Nova Scotia Municipal Board is extensive. It can deal with appeals respecting municipal and regional development permits, (S. 67.1), decisions respecting development agreements and comprehensive development districts, (S. 71); amendments to by-laws or a refusal to amend a by-law on application by an individual (S. 63(1)) and subdivision appeals (S. 103).

Section 63(5) of the Planning Act states that the Board shall not allow the appeal unless the Board determines the decision of the council cannot reasonably be said to carry out the intent of the municipal planning strategy. Section 63(7) permits the Board to allow an appeal notwithstanding Section 63(5) if the applicant would suffer undue hardship or extraordinary and compelling circumstances are present. The jurisdiction of the Board has been judicially explored in the Heritage Trust case.[4]

Planning decisions may be called into question in two ways: the first being through statutory remedies by way of appeal under the Planning Act and the second and more hazardous route being through the common-law remedies of certiorari, prohibition or mandamus.

To aid in its functioning, the Municipal Board has developed a set of rules. These rules govern such matters as procedure to be followed for the filing and service of a Notice of Appeal, adjournments, briefs, etc. The rules state the appeal shall be a public hearing and that hearings may be conducted in an informal manner and need not follow the strict rules of practice and procedure required by the courts (Rule 10(1)). Evidence, however, as to matters of fact must be proved by sworn testimony, unless the Board decides that proof by affidavit or statutory declaration will be adequate.

The rules do not provide for pre-hearing conferences prior to the hearing of an appeal. However, in some cases, the Board has conducted a pre-hearing conference to which the appellants' lawyer, the developer's lawyer, and the City's lawyer all attend. The Municipal Board's counsel also attends. In my experience these pre-hearing conferences have had as their function administrative convenience. The issues under appeal are identified, parties are asked to indicate how long their case is likely to take and what expert testimony they may be adducing. The Board will ask to be advised as to what matters are going to be raised on a preliminary basis, for example, standing. The use of the preliminary motion to challenge an appellant's standing I will discuss in the section on my brief on standing. It is my opinion that such a motion has no place in the planning process.

Appellants have used a pre-hearing conference to advise the Board of difficulties they are experiencing in relation to other parties to the appeal in preparing their case. Reluctance by the City of Halifax to be forthcoming with information from their files in the Planning and Development Control Departments has been one such matter. The Board, however, refused on that occassion to intervene and order the City to provide full disclosure. An undesirable result of a passive stance in the face of obstructionist tactics by a municipality may be to force an appellant to pursue discovery of documents and information although the Municipal Board rules do not provide for the discovery process as part of planning appeal litigation. Even if such a mechanism were available to appellants, it is costly and would consume appellants limited resources and energies. To avoid this, a pre-hearing conference could be an opportunity for the Board to ensure that more information is made available to citizens in the form of relevant reports and other information from city files. This would surely be consistent with the Planning Act which states as its purpose the establishing of a consultive planning process which will ensure the right of the public to have access to information. Furthermore, the Municipal Board Act states in Section 21(2) "every municipality...shall furnish to the Board such accounts, reports and information as the Board requests".

Standing-Aggrieved Persons

In 1983 the Planning Act was amended so that access to the Municipal Board was restricted to those persons who could show that they were "aggrieved persons". Previously appellants had to show that they were "interested persons" under the Planning Act.

The defintion of aggrieved persons was interpreted by the Municipal Board (Ms. Elizabeth Lawrence) sitting as a sole Board member in a decision dated April 30, 1985.[5] The Riverlake Resident's Association, incorporated under the Society's Act, brought an appeal under Secion 63(10 of the Planning Act against a decision by Halifax City County to rezone lands belonging to Procor from unzoned status to general industrial. Procor had owned the lands in question for 20-25 years and had used its holdings for similar purposes for that period. It seemed to be, in effect, seeking to have its use of the land made legal and conforming. Prior to the Board considering the appeal on the merits, Procor raised an objection to the status of the appellant, Riverlake Resident's Association, and therefore, to the

jurisdiction of the Board to hear the appeal.

The Board construed the change in wording in the amended Planning Act to express "... an intention to restrict to some degree those who have the right to appeal...". The Nova Scotia Municipal Board concluded that the new legislative language had to be interpreted as far more confining than its predecessor. Riverlake Resident's Association was found not to be an aggrieved person and the appeal was dismissed. The standard adopted by the Board was described in its own words as "the two most restrictive definitions of aggrieved person".

The Board went on to state:

> *"In the opinion of the Board, the appellant does not have a legal grievance in this matter. It has not been denied some personal or property right or had imposed upon a burden or obligation and therefore, is not an aggrieved person in the matter of this hearing."*

There is no doubt that the interpretation of legislative intention, especially without the aid of statutory definition as is the case in the Planning Act, it is a very difficult task. The Board principally relied upon Ex Parte Sidbotham[6] and Halifax Atlantic Investments Limited[7] as precedents for interpreting the phrase "aggrieved persons". It is my opinion that neither of these authorities ought to have been determinative of the issue. In Sidebotham, the Court of Appeal in 1880 was called upon to decide whether an undischarged bankrupt was a person aggrieved who could therefore appeal a refusal by a county court judge to consider the bankrupt's application for review of a trustee's actions. The case dealt with a wholly different subject and statutory environment, one in which the court may have had much better reasons for reducing the scope of aggrieved persons than can be justified in a planning law context.

Halifax Atlantic Investments involved an attempt by members of the Halifax Hotel Association to oppose a lot consolidation by a would be rival hotel owner. The Nova Scotia Court of Appeal regarded it as "...truly a contest based on potential

competition". The appeal brought by the Riverlake Resident's Association was an attempt by a group of citizens to protect what was deemed to be the interest of the community at large and not the actions of profit oriented investors.

The Board also made reference to Black's Law Dictionary which I would suggest was an inexact tool for resolving the difficult matter of statute interpretation. Furthermore, it is an American reference text. The Board rejected cases put forward by Riverlake in support of its assertion that there has been a liberalization of standing criteria, on the basis that the cases cited were "supportive only of the rights of appellants to be considered aggrieved persons where the issues are constitutional or where prerogative remedies are sought".

Reference to Section 2(c) and (d) of the Planning Act demonstrating legislative intent to involve citizens in the planning process was met by the Board's statement that:

> *"public participation in all phases of the planning process, (counsel's words) does not extend to an unrestricted right of appeal for each and every citizen in either this Planning Act or its predecessor."*

This narrow reading of Section 2(c) of the Planning Act and the Board's narrow interpretation of the definition of aggrieved persons would not seem consistant with either the Planning Act or the spirit of planning law as citizen participation and access to the appeal tribunal have such central importance.

The Board had occasion to consider the issue of aggrieved status again under the Planning Act in the matter of An Appeal by Douglas Benedict[8] from the decision of the council of the Town of Truro made February 4, 1985. A full Board decision dated August 15, 1985, found that Mr. Benedict, a landowner in close proximity to the parcel of land rezoned and the persons living in a community in close proximity to all the land being rezoned, was an aggrieved person. Mr. Benedict's evidence was that the rezoning decision would effect adversely the value of his interest in that land or would be perceived by him and many others

to do so. The Board went on to state:

> *"Even under these most restrictive definitions as cited, the appellant is a person 'whose pecunary interest is directly affected by the decree or judgement and is of a substantial nature', and the Board is therefore of the opinion that the appellant is an aggrieved person. The Board had considered the Riverlake decision and its restrictive definition of aggrieved person quoting from Black's Law Dictionary, in part: "the word 'aggrieved' refers to a substantial grievance, a denial of some personal or property right, or the imposition upon a party of a burden or obligation."*

The Board admitted that the definitions were the most restrictive but did not forestall Mr. Bendict from advancing his appeal.

In the face of applying such restrictive definitions, the Board must have been influenced by what it termed the expert evidence of a Mr. Fraser, a real estate sales person. Mr. Fraser was accepted as an expert in matters affecting real estate sales in Truro and surrounding areas. He gave his personal opinion that the rezoning in question would depreciate the values of existing single family residential family residential properties and stated that he felt the appellant's house was diminished in value about 5% by this rezoning. Other opinion evidence concerning the effect of the rezoning on properties was provided by residents of the area.

The issue of aggrieved persons was considered again by the Municipal Board in the matter of: An Appeal by Edward Backman, H.A. Kaiser et al.[9] from a decision of the Council of the City of Halifax made on March 28, 1985, approving an application for contract development. This decision was handed down by a full Board on January 7, 1986. Developer's counsel in this case accepted that some of the appellants were "aggrieved person" pursuant to Section 71(1)(a) of the Planning Act. He accepted those appellants who were abutting

landowners to the proposed development. He challenged several appellants who lived approximately a block and one-half away. No expert testimony was aduced in relation to the issue of who was an aggrieved person. The fact that the developer's counsel accepted some of the appellants as aggrieved did not give the Board jurisdiction to hear the appeal solely on that basis. The abutting landowners to the proposed development expressed concern that the value of their property would decline as a result of contract development permitting the apartment building in question. The Board found that:

> *"All of the appellants who own property and reside in Bishop's Row (abutting land) are persons who, in the opinion of the Board qualify as "aggrieved persons" as those words are used in Section 71(1) of the Planning Act."*

The Board took note of the fact that counsel for both the developer and the City had not challenged the appellant status of the Bishop's Row residents.

In considering the standing of the other appellants, who were not abutting landowners, the Board stated:

> *"If a person appeals a decision made under the Planning Act as an "aggrieved person" he must, in the opinion of the Board have a legal grievance, that is, he must have a lawful complaint or injury. His complaint or injury must be lawful, that is, sanctioned or recognized by law. He must show something more than mere dissatisfaction with the decision he seeks to appeal. He must also be shown to have something more than a mere 'interest' in the decision appealed."*

The Board remarked that the mere fact of being abutting owners or residents does not in itself give an appellant the status he claims but is a factor which is relevant in the determination of his status. The closer a person is to a development the more likely it is that the person is going to be affected either positively or negatively by the development.

The Board went on to say that all citizens of a municipality where a municipal planning strategy is in effect have the right to expect their elected council in approving contract developments which are not permissible

The Board went on to say that all citizens of a municipality where a municipal planning strategy is in effect have the right to expect their elected council in approving contract developments which are not permissible "as of right" under the municipaliy's land use by-law, to make decisions which are reasonably within the intent of the municipality's municipal planning strategy. The Board stated that "it is virtually impossible for the Board to determine in any given situation whether or not a person who appeals to the Board in the guise of an aggrieved person form a decision of council approving a contract development is, in fact and law, an "aggrieved person" unless the Board has before it adequate evidence relating to the proposed development to determine the effect of the development of the person appealing.

In this single statement, the Board indicated that in order to make a determination on the status of a person bringing an appeal, the Board needs to hear the merits of the appeal to determine whether a council has made a decision which is reasonably within the intent of the municipality's municipal planning strategy. Section 45 of the Planning Act states the adoption by a council of a planning strategy "...shall prevent the undertaking by the council of any development within the scope of the planning strategy in any manner inconsistent or at variance therewith."

The remedy for a citizen affected by a wrong decision of a council as by way of an appeal to the Municipal Board.

In Kaiser et al the Board appeared to accept that the properties of the abutting landowners to the proposed apartment building would be adversely affected by the development. This was found to be a burden imposed and thereby a legal grievance.

Although the Board found that the Ward One Resident's Association demonstrated that it has a real and substantial interest in the proceedings and was therefore, permitted to participate in the hearing pursuant to Section 27(4) of the Municipal Board Act, it was found not to be an "aggrieved person". It failed the Riverlake test and dii not own property. Nearby residents were found not to be

aggrieved because their properties were sufficiently remote from the subject site so as not to be adversely affected by the proposed development. They too, however, were found to have a real and substantial interest in the subject matter of the proceeding entitling them to participate in the hearing. Such participation, however, is only possible once the Board has found that there is an aggrieved person bringing the appeal and thereby giving the Board jurisdiction to hear it.

Perhaps most significantly, the Board heard evidence and argument about the standing and the merits of the appeal concurrently. Evidence by the appellants demonstrated that the council in approving the proposed development failed to make a decision that met the intent of the municipal planning strategy, there being substantial violations of particular policies. It is surely an unassailable position that people are aggrieved if a municipal council's decision is wrong.

Most recently the Municipal Board has had the opportunity to consider the issue of standing In the matter of: Appeals by the Northwest Arm Heritage Association, Read et al, [10] from the decision of the Council of the City of Halifax made on July 11, 1985, approving an application for contract development with Edmonds Grounds. The full Board in a decision dated January 31, 1986, found that none of the twenty-six appellants were aggrieved persons, and therefore, the appeals were dismissed. Individual appellants testified to their concern that the development would interfere with the enjoyment of their land making reference to increased traffic, inadequate provision for sewage disposal, noise, dirt and disruption during the construction phase, more restrictive use of the Arm and obstruction of their views. It was the opinion of the appellants that their neighbourhood would be detrimentally altered by the development: aesthetically by the erection of apartment buildings, and the removal of trees and other vegetation on the Edmonds Grounds, socially by the disruption of the peace and quiet and integrity of the area and, potentially economically, through lowered property values. Although individual appellants gave their opinion that their property values would be interfered with by the development on the Edmonds Grounds, no experts were called on behalf of the appellants to address this issue. The developer called three real estate appraisers who were accepted as experts by the Board and who submitted reports all of which stated the

opinion that the appellants' properties would not be injuriously affected by the development. The developer used this evidence in this argument that the decision of City Council had imposed not burdens on the appellants, denied no legal rights nor caused them to suffer a legal grievance.

The issue of standing in the Edmonds Grounds case was raised on a preliminary motion by the developer and the Board agreed to hear it prior to the hearing of evidence concerning the merits of the appeal. The Board accepted the evidence of the real estate appraisers and once again followed the reasoning of Riverlake and the decision in the case of Halifax Atlantic Investments Limited et al. v City of Halifax. The appellants had argued that there was considerable danger in the Board accepting the evidence of real estate appraisers who were, in effect, being asked to give an opinion as to the impact on nearby properties of a development which was not slated for completion for five years. The appellants suggested that such opinion evidence failed to take into account that the appellants did not perceive their homes in strictly market value terms. One of the expert appraisers acknowledged that a property has a value to its owner that is other than a strict market value calculation. However, the fact the appellants perceived that the value to themselves of their property would be diminished by the proposed development was not sufficient to persuade the Board to find that they had been aggrieved by the decision of City Council. The appellants had argued that the threatened neighbourhood was their home, and preserved and embodied a quality of life that could not be measured in monetary terms.

The Board reaffirmed its decision in the Kaiser decision that in order to determine if an appellant has an aggrieved status, the Board must have adequate evidence before it relating to the proposed development. As the issue of aggrieved persons was heard by the Board in the Edmonds Grounds case on a preliminary motion it was impossible for the Board to have adequate evidence before it concerning the development. No city planners or other experts gave evidence concerning the proposed development

and the Board was left to pick up what little bits and pieces fell out of the appellants testimony concerning their status. However, the Board stated that it did have adequate evidence concerning the proposed development for the purpose of determining the appellants' standing. I believe the Board should have seen that this could not be so, particularly for a development of such size and complexity and that the Board should have reserved its decision on the standing of the appellants, heard the merits of the appeal and then made a decision as to whether or not the appellants were aggrieved.

The unfortunate result of Riverlake and the subsequent decisions by the Municipal Board concerning the definition of aggrieved person is that an overly restrictive rigid interpretation of aggrieved persons has developed in our planning law. This will enable major violations of municipal planning strategies to go unchecked and will have the most serious implications for the future of planning law in Nova Scotia. The Planning Act clearly sets out the pivitol role of citizen participation in the planning appeal process. Given that the Board shall not allow an appeal unless it determines that the decision of the council cannot reasonably be said to carry out the intent of the municipal planning strategy, there is no real risk of the Municipal Board usurping the powers of civic governments as a result of broader access by citizens to the planning appeal process. A less restrictive definition of standing will not change the very onerous burden upon appellants to prove the merits of their case. Citizens as individuals or in association who appeal planning decisions do not do so frivolously. The effort and financial commitment involved in pursuing an appeal is such that only people who have a sincere and thoughtful longterm commitment to the best interest of their community would initiate an appeal. Effectively, citizens are being denied access to the planning process and it would appear now that only legislative change will open the doors once again to citizen participation in planning appeals before the Municipal Board.

Footnotes

1. Taylor on Evidence (12th ed.)
2. R. V Fisher 1961, O.W.N. 94.
3. In the Matter of: Appeals by the Northwest Arm Heritage Association, Graham C. Read and 19 others, and Sheri Wiener and 14 others, NSMB-496-85-P.
4. (1981), 50 N.S.R. (2d) 352 (N.S.S.C.T.D.).
5. In the Matter of: An Appeal by Riverlake Resident's Association.
6. 1880 C.C. 459 (C.A.).
7. 28 N.S.R. 92d) 193 (N.S.S.C. T.D.).
8. In the Matter of: An Appeal by Douglas Benedict.
9. In the Matter of: An Appeal by Edward Backman, Joan Backman, Michael Duda, H.A. Kaiser et al.
10. supra, footnote no. 3.

SCOPE:

Difficulties experienced and lessons learned in attempting rural planning.

PANEL:

Rick McCready - Planner
Cumberland District Planning Commission

David Irvine - Former Councillor and P.A.C. Chairman
Municipality of Digby

Lawrence Nason - Warden
Municipality of Colchester

DISCUSSION:

Dave Smith, Community Planning Division, brought forward as chairman the following questions regarding rural planning, to be considered by the audience during the panel presentations:

What are the problems to be addressed?

Who should do the planning: the Province, the municipality, or a Joint Planning Advisory Committee?

Is there enough flexibility in the Planning Act to allow proper planning?

Do rural municipalities have the financial resources to do the planning?

Do they have the jurisdiction?

Rick McCready felt that the trend emerging in rural municipal planning strategies is that they are not addressing the broad or major issues of rural land use. They are not coping effectively with agricultural land use and preservation, and not stopping sprawl, and are not protecting underground resources. Instead they

zero in on urban land use conflicts. For example, in Cumberland, issues such as auto body shops and mobile home parks are dealt with rather than the agricultural issue.

These shortcomings arise not because rural councils are abdicating their responsibility, but because such matters should be dealt with by the Provincial Government. It is the Province that pays the costs of sprawl, through road paving and servicing, while sprawl is viewed as a positive trend by the local government. The Province is responsible for agriculture and gives out grants for the development of same. It is also responsible for protecting the environment and for the designation of tourism trails.

As an example of the need for agricultural land preservation, Rick McCready felt that we should be growing more of our own grain, for which we need a suitable land base. However, in carrying out it planning the Province should not run rough-shod over local concerns. More local input for Provincial planning efforts than the minimum laid down in the Planning Act is required.

David Irvine said he ran for Municipal Council on a planning platform. He wanted to deal with crisis management by avoiding it in advance. He wanted planning to deal with housing, retail, land banking, and directions for growth; to assist private enterprise and in capital programming, and to have influence on other levels of government to introduce needed programs.

The main challenge was considered the development of a municipal planning strategy and land use controls would just follow. Since a Planning Advisory Committee had been in place for years but had never met, Council was convinced to adopt a resolution to create a new P.A.C. C.P.D. provided a resource person on an as needed basis.

The planning process got underway with public meetings, with about 20 to 30 in attendance at each meeting. It was soon discovered that all those attending were against planning and zoning. No one had any idea of what planning meant. The press was non-supportive. Some councillors spread falsehoods and half-truths. The net result was that of the P.A.C. membership, one of the citizen members was totally anti-planning, two of the councillors became non-supportive from public pressure, and one citizen never attended.

Despite the fact that the public was told many times there was no pressure and no rush, public meetings were clearly hostile. There was a fight each time a report was made to Council, and at the end only three Council members were non anti-planning. Finally, a Council resolution was passed which did away with the P.A.C. and the whole planning process.

David Irvine pointed out how things should have been done differently. They should have had Council solidarity before starting the process, by having taken the time to educate Council on what planning is all about. They should have ensured that the P.A.C. members were all in favour of planning. They should have carried out an attitude survey prior to the public meetings, working with the Council and P.A.C., to identify a few recognizable problems. They should have held a few P.A.C. meetings before the public process, and identified some key members in the community who would have been prepared to bring some positive comments to the public meetings. They should have started with a small area, rather than going municipality wide right at the beginning. Finally, they should have played down the Provincial involvement more.

The municipality had an attitude survey done after this, with the assistance of the Annapolis County Planning Department and the Nova Scotia Land Survey Institute students, but the results were dismissed by over half of the councillors. A recent encouraging sign, however, is that now four councillors are supporting planning, three of them new to Council, and all are in attendance at this seminar.

Lawrence Nason compared the planning needed in agriculture with land use planning. However, rural Nova Scotia is inhabited by rugged individualists that react very vocally to anything that might upset the status quo. This is reflected in the fact that there are only two or three truly rural plans in place, covering an entire rural municipality.

Proper urban planning is perhaps the first step in preventing strip development in rural areas. He quoted the U.S. Supreme Court Justice Douglas as supporting the protection of the rural environment for families. Provincial legislators need to recognize rural Nova Scotia: the Planning Act is an urban document.

We need different options for rural land use controls: the municipal planning strategy and land use by-law are too complicated for a rural area, their inner relationships are not understood or are improperly used, and only their administrators - and sometimes perhaps not even they fully understand the documents. The public never gets an in-depth understanding.

Large municipalities such as Pictou, Colchester, Cumberland and Kings are both rural and urban. They have to deal with urban issues, fringe area issues, rural issues, and sometimes depressed area issues. The urban issues are dealt with under the present Planning Act. Fringe and rural issues need a simple process, to be used in selected areas as deemed necessary. There is a need to be creative, and to develop new tools for rural Councils with limited time and finances.

A broader context is needed than planning strategies and land use controls. Many problems cannot be addressed by the Planning Act, such as employment, right-to-farm, and social issues. We need to be ready for the protection of prime agricultural land, as the food issue is soon to be more important than the energy one.

Rural residents, as in the West Colchester example, are highly critical of planning because they fear it jeopardizes their rights to property and deprives them of a fair return on their investment and potentially even of their livelihood. These fears are often justified.

A simple approach is needed at first in rural planning. As Farley Mowatt advises, "go live with the wolves for a while", because otherwise planners are often seen as agents of changes and become suspects.

To maintain a rural lifestyle the prime resource of this province, there has to be serious planning done. We must start now, simply, to condition rural residents to what has to happen. The present Planning Act cannot facilitate this process.

COMMENTS:

Barrington P.A.C. Member - The Digby start was an average one, in Barrington it took ten years to put a planning strategy in place. The P.A.C. did not listen to the public for the first five years, but rather concentrated on the problems of the municipal unit. During the last five years it took another look, and asked the public what it would like to see. It developed a positive attitude by inviting people who called the P.A.C. and councillors to P.A.C. meetings. It made it clear that if needs are not addressed, the P.A.C. would look at changing. Fishermen are much the same as farmers, planning requires much selling and listening.

Bob Elliott - In Kings, rural people saw a change in values as a result of people moving out of towns and they feared this and found it threatening. If rural planning is needed, a consensus will develop. Kings County had had zoning since 1965, so land use controls were already acceptable. If you get people talking and if they are ready to listen, the rest falls into place.

Derm English - The present legislation is not inappropriate- you can devise things within the Planning Act. But what resources could the Province provide to assist municipalities in this process?

Lawrence Nason - Soils inventories are from the 1960's and are too old. The Province should get rural people or rural councils to tell what the problems are.

Pictou County Councillor - After several attempts to impose planning from the urban centres, people are suspicious and will not support something coming from an 'ivory tower'. Why preserve farmland when produce prices are too low and farmers might be forced to sell building lots to preserve the remainder of their farms? Ribbon development is already there and cannot be controlled. In addition, private roads standards are very high and this forces people to go along the existing highways to build.

(a) SUBDIVISION - TECHNICAL UPDATE AND AMENDMENTS

Jack Leedham
Department of Municipal Affairs

(b) PLANNING LAW UPDATE

Bruce Wildsmith
Faculty of Law
Dalhousie University

(c) INTEGRATED LAND INFORMATION SYSTEMS

Doug Foster
Cape Breton Metro Planning Commission

- The integration of L.R.I.S, Assessment, Registry of Deeds and Planning data bases.

(d) WASTEWATER MANAGEMENT SUPPLIES

Dave Darrow
Department of Municipal Affairs

(e) WATERSHEDS AND WATER SUPPLIES

Maurice Lloyd
Manager, Atlantic Region
U.M.A. Group

- A discussion on municipal watershed management techniques and water supply treatment options.

(f) HOUSING

Laurel Russell
Planner
Department of Housing

- Development Standards, red tape and other housing issues.

(g) HEALTH REGULATIONS - TECHNICAL UPDATE

Peter Casey
Department of Health

(h) MINERAL RESOURCE MAPPING

David Hopper
Department of Mines and Energy

- A display and discussion of what has been compiled to date in Nova Scotia.

(i) LAND USE POLICY COMMITTEE - RECENT INITIATIVES

Nancy Vanstone
M.R.M.S.

CONCLUDING REMARKS

Mr. John Mullally
Deputy Minister
Department of Municipal Affairs
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I don't want to prolong the very fruitful and interesting seminar that is just concluding, I simply want to take a moment on behalf of our Minister, Mr. Nantes, and all of us in the Department of Municipal Affairs to thank you for coming to this conference - elected municipal officials, officials of municipal government, planners from Provincial Departments, municipalities, and the private sector, representatives of universities and other institutions. We do thank you very warmly for responding to the invitation and for the active manner in which everybody has participated in the discussions that covered the last day and a half. While the Department is very happy to sponsor this annual planning seminar, as you are aware it would not be possible to hold it without the very generous and helpful participation by a great many people from municipalities, other Provincial Departments, the universities and the private sector. I would like very much to thank all of those who participated either contributing as leaders of the discussions, participating in the panels, and other discussion forums that you had. I quickly looked over the program and I counted up thirty-seven people who played a very helpful role in the discussions and without those contribution it wouldn't be possible to have this seminar. I do want to thank them all very sincerely and warmly for the contribution that they have made. I especially, on your behalf want to thank Ron Clark and Peter Martin. Ron I understand had to return to Saint John. I didn't have a chance to meet him and to thank him personally. I know that his opening address set the tone for much of your discussions and has contributed very substantially to the seminar. I did manage to get here this morning to hear a good part of Peter Martin's address and one could comment on things he raised and many parts of his very interesting, stimulating and provocative remarks. I understand, Peter, that this is the second time you have assisted us with this conference. We're delighted that you came back again and I'm hopeful that sometime in the next few years that we will be able to ask you to assist us again. On behalf of the people attending the conference I would like to express our gratitude in a very small tangible way and ask you if you would accept this small gift as a token of our appreciation and thanks.

Unfortunately, I wasn't able to attend very many of the sessions, but from chatting with people, both before lunch and on a few other occasions, I understand it was an excellent conference. I seem to get the impression that people appreciated the attendance of substantial numbers of elected municipal officials. I think the Community Planning staff and appointed officials, both provincial and municipal, find that extremely helpful and beneficial to the conference and I'm sure it's going to be helpful as you return to your municipalities and proceed in planning discussions and the planning process. We're extremely grateful to the elected municipal people who have taken the time and trouble to be here. I neglected in offering my thanks to say a special thanks to Ron Simpson and the staff at the Department of Municipal Affairs who organized the conference and did it in their usual efficient way and that's what one expects when planners organize events. Finally, I'm sure that we'll be having another conference next year. I hope you will all come back and that others who were not able to come this year will also be along.